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# FEMA's Disaster Relief Fund: Overview and Selected Issues

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## Summary

The Robert T. Stafford Emergency Relief and Disaster Assistance Act (P.L. 93-288, as amended) authorizes the President to issue declarations for incidents ranging from destructive, large-scale disasters to more routine, less damaging events. Declarations trigger federal assistance in the forms of various response and recovery programs under the Stafford Act to state, local, and tribal governments. The Federal Emergency Management Agency's (FEMA's) Disaster Relief Fund (DRF) is the primary funding source for disaster response and recovery.

Funds from the DRF are used to pay for ongoing recovery projects from disasters occurring in previous fiscal years, meet current emergency requirements, and as a reserve to pay for upcoming incidents. The DRF is funded annually and is a "no-year" account, meaning that unused funds from the previous fiscal year (if available) are carried over to the next fiscal year. In general, when the balance of the DRF becomes low, Congress provides additional funding through both annual and supplemental appropriations to replenish the account.

The federal government provides a significant amount of money to state and local governments each year for emergency and major disasters. For example, Congress provided roughly \$120 billion for Hurricane Katrina and \$60 billion for Hurricane Sandy recovery. Even in years with relatively few major disasters, it is not uncommon for the federal government to annually appropriate between \$2 billion and \$6 billion to help pay for recovery projects. Studies and analyses of disasters indicate that there has been an uptick in the number of major disasters declared each year. In addition, scholars of disaster policy and other experts such as climatologists expect disasters to increase in both frequency and in costs in the near future.

Federal disaster assistance expenditures are influenced by both external and internal factors. External factors that increase federal spending on disaster costs include increases in the frequency and magnitude of weather related events, and increases in population size and development—especially in coastal and other flood prone areas. Internal factors also influence how much assistance is provided and include disaster assistance policies that have evolved over time that have expanded the federal role in emergency and major disaster declarations such as altering declaration criteria and adjusting the federal cost-share for response and recovery.

Congressional interest in disaster assistance has always been high given the amount of money provided to states and localities, but also because of increasing disagreements over the appropriate role of the federal government in providing assistance. Other congressional concerns include the use of supplemental appropriations to pay for disaster relief, offsetting expenditures for disaster assistance, and whether some of the federal burden for disaster assistance should be shifted to states and localities.

This report describes the declaration process and the types of declarations that can be issued under the Stafford Act: (1) emergency and major disaster declarations, and (2) Fire Management Assistance Grants. The report also examines how the DRF is financed. This discussion is followed by an analysis concerning the issues related to the DRF including the debate over supplemental appropriations, how the DRF is budgeted, and the influence the Budget Control Act has had on the DRF.

Some argue that the current method of funding and providing federal assistance for disaster response and recovery is functioning correctly and should not be changed. Others argue that the

federal government should increase the amount of funding provided to states and localities for emergency and major disaster declarations. Still others argue that policy options that reduce federal costs for emergency and major disaster declarations or reduce the number of supplemental appropriations needed (or both) should be pursued. Policy proposals that could help achieve these ends include:

- appropriating more funds for the DRF to reduce the need for supplemental funding,
- restructuring the budget procedures for disaster assistance,
- creating alternative funding methods such as a rainy-day fund or a contingency fund,
- reducing federal costs by eliminating unrelated spending in disaster funding bills,
- altering policies that would limit the number of declarations issued each year, and
- converting some or all disaster assistance to disaster loans.

This report concludes with policy questions that may help frame future discussions concerning federal emergency and disaster relief.

This report will be updated as events warrant.

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# Overview of the Disaster Relief Fund

The Disaster Relief Fund (DRF), sometimes referred to as the President's Disaster Relief Fund, is managed by the Federal Emergency Management Agency (FEMA).<sup>1</sup> The DRF is the main account used to fund a wide variety of disaster assistance programs that provide grants and other forms of support to assist state, local, and tribal governments, as well as certain nonprofit entities during disaster recovery. The DRF is also used to fund Mission Assignments. Mission Assignments are used by FEMA to task and reimburse other federal entities that provide direct assistance during emergency and major disaster declarations.<sup>2</sup> The DRF functions as a reserve for potential, future incidents, as well as an account to pay for ongoing projects to recover from past disasters.

The majority of assistance provided by the federal government in response to emergency and major disaster declarations is funded through the DRF. The DRF, however, is not used to fund the federal response to every type of incident. In general, funds from the DRF are released after the President has issued an emergency or major disaster declaration pursuant to the Robert T. Stafford Relief and Emergency Assistance Act (P.L. 93-288, as amended, hereinafter the Stafford Act).<sup>3</sup> Incidents that are not declared under the Stafford Act are either handled by states and localities without federal assistance, or the assistance is provided by another federal entity under its own authority using its own funding mechanism. For example, the Small Business Act<sup>4</sup> authorizes the Small Business Administration (SBA) to issue disaster loans to households and businesses in response to certain types of incidents.<sup>5</sup> The U.S. Department of Agriculture (USDA) also offers several permanently authorized programs to help farmers recover financially from a natural disaster, including federal crop insurance, the Noninsured Crop Disaster Assistance Program (NAP), and emergency disaster loans.<sup>6</sup>

While not specifically authorized in statute, the DRF has been used to fund recovery projects for over four decades. Rather than an authorized account, the DRF is the product of legislation and federal policies that can be traced to the post-World War II era. Prior to that time, disaster response activities were funded primarily through local efforts and voluntary groups. In cases where the federal government did offer assistance, the needs of disaster victims and affected communities were funded on an as-needed basis through appropriations that were then allocated, pursuant to the legislation, by executive branch administrators and, ultimately, the President.

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<sup>1</sup> Congress also appropriates disaster funds to other accounts administered by other federal agencies pursuant to federal statutes that authorize specific types of disaster relief.

<sup>2</sup> Certain federal entities, such as the Department of Transportation, fund emergency and disaster assistance through their own budgets.

<sup>3</sup> 42 U.S.C. 5121 et seq. For information on the declaration process, see CRS Report RL34146, *FEMA's Disaster Declaration Process: A Primer*, by Francis X. McCarthy, and CRS Report R42702, *Stafford Act Declarations 1953-2011: Trends and Analyses, and Implications for Congress*, by Bruce R. Lindsay and Francis X. McCarthy. Note that some activities may be funded by the DRF without a presidential declaration. For example, the Disaster Readiness and Support Account pays for FEMA's phone centers, finance centers, and housing inspectors. Through this account certain recovery elements are already in place when the President issues a declaration.

<sup>4</sup> P.L. 85-536, Section 7(b) 72 Stat. 387, as amended.

<sup>5</sup> For more information on the SBA Disaster Loan Program see CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress*, by Bruce R. Lindsay.

<sup>6</sup> For more information on agriculture disaster assistance see CRS Report RS21212, *Agricultural Disaster Assistance*, by Dennis A. Shields.

## Presidential Declarations

There are two principal forms of presidential action that authorize federal assistance to states and localities that are paid out of the DRF: emergency declarations and major disaster declarations.

- Emergency declarations are issued to protect property and public health and safety, and to lessen or avert the threat of a major disaster or catastrophe.<sup>7</sup> Emergency declarations are often made when a threat is recognized (for example, before a hurricane makes landfall) and are intended to supplement and aid the coordination of state and local efforts prior to the event, such as evacuations and protection of public assets.
- Major disaster declarations, on the other hand, are generally made as a result of a significant incident and constitute a broader authority that helps states and local communities, as well as families and individuals, recover from the damage caused by the event.<sup>8</sup>

## The Stafford Act Process for Declaring Emergencies and Major Disasters

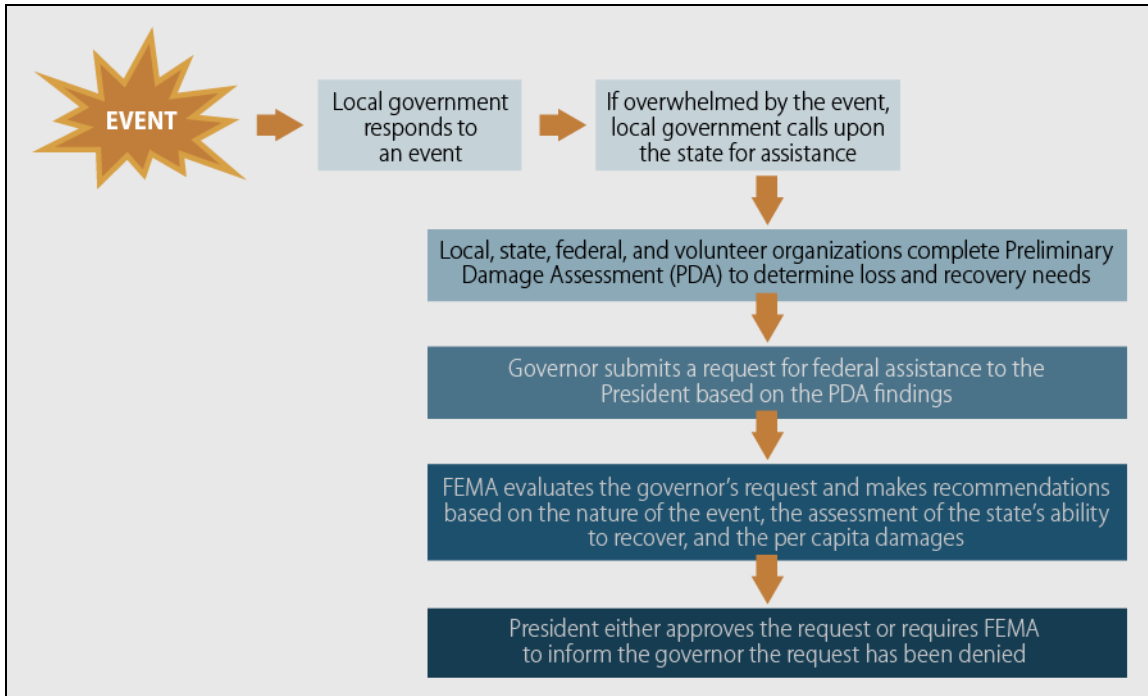
As shown in **Figure 1**, the declaration process used by the federal government is based on the concept of scalability. For example, suppose communities and local governments are the first to respond after an incident has occurred. Local governments must then request assistance from the state if responding to (or recovering from) the incident is beyond their capacity. Similarly, when a state is overwhelmed by an incident, the state governor may elect to request assistance from the federal government. Federal assistance is contingent on the gubernatorial request because the Stafford Act stipulates that the governor of an affected state must formally ask the President to issue an emergency or major disaster declaration.

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<sup>7</sup> 42 U.S.C. §5122. Emergencies are defined as “any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.”

<sup>8</sup> Ibid. Major disasters are defined as any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

**Figure 1. The Stafford Act Process for Declaring Emergencies and Major Disasters**



**Source:** CRS interpretation of statutes and federal regulations.

**Note:** Requests for emergency declarations can be made prior to an event. See Section 501(b) of the Stafford Act.

A President's declaration triggers the allocation of funds from the DRF, and the funding may be distributed from any one, or any combination, of three categories of disaster aid:

1. **Individual Assistance.** Individual Assistance (IA) includes disaster housing for displaced individuals, grants for needs not covered by insurance, crisis counseling, and disaster-related unemployment assistance.
2. **Public Assistance.** Public assistance (PA), which is FEMA's largest funded program, helps communities absorb the costs of emergency measures such as removing debris and repairing or replacing structures such as public buildings, roads, bridges, and public utilities.
3. **Hazard Mitigation.** FEMA funds mitigation measures to prevent or lessen the effects of a future disaster through the Hazard Mitigation Grant Program.<sup>9</sup>

Even if the President issues an emergency or major disaster declaration, not all persons or entities affected by a disaster are eligible for disaster assistance. FEMA officials determine the need for assistance from authorized categories after a declaration is issued and provides assistance only to those persons or entities determined to need the assistance.<sup>10</sup>

<sup>9</sup> A structure does not have to be damaged to be eligible for mitigation. Hazard Mitigation Grants are available as block grant funds and do not have to be used in the designated disaster area—they can be used anywhere in the state. For more information, see CRS Report R40471, *FEMA's Hazard Mitigation Grant Program: Overview and Issues*, by Natalie Keegan.

<sup>10</sup> For example, under 44 C.F.R. §206.101(2) a household that has access to alternative housing would be ineligible for (continued...)



## Fire Management Assistance Grant Declarations

The DRF is also used to fund the Fire Management Assistance Grant (FMAG) program. While the President has the sole authority to issue an emergency or major disaster declaration, the determination to issue a FMAG declaration can be rendered either by the President or FEMA.<sup>11</sup> In many instances they are issued by the FEMA Regional Director in coordination with FEMA headquarters. A FMAG declaration authorizes various forms of federal assistance, such as equipment, personnel, and grants to any state or local government for the control, management, and mitigation of any fire on public or private forest land or grassland that might become a major disaster.<sup>12</sup> FMAG declarations are relatively modest in cost when compared to emergency declarations and major disaster declarations. A review of declarations under the Fire Management Assistance Grant Program shows the most expensive year was 1998, in which 53 declarations were made, accounting for obligations of roughly \$105 million.<sup>13</sup> By way of comparison, in 1998 \$3.7 billion was obligated for major disaster declarations.

## Current Funding and Budgeting Practices for the DRF

The following section discusses how the DRF is funded including the budgeting and appropriation process. It also describes the Budget Control Act and the DRF Monthly Report.

### Annual Appropriations

Congress funds the DRF annually through regular appropriations, but unlike most appropriations which expire after a set period of time, the DRF is a “no-year” account. The funds for no-year accounts are available until expended—any remaining funds at the end of the fiscal year are carried over to the next fiscal year. One benefit of a no-year account is that the unobligated balance in the account can be used to pay for future disasters the next fiscal year. Another potential benefit of a no-year account is that the funds remain available during a government shutdown or an appropriation funding lapse.<sup>14</sup>

### Supplemental Appropriations

In the past, funds in the DRF were often depleted before the end of the fiscal year due to disaster assistance needs. When the account nears depletion, Congress usually provides additional funding through one or more supplemental appropriations.<sup>15</sup> The need for additional funds is generally

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(...continued)

housing assistance.

<sup>11</sup> 44 C.F.R. 204.24.

<sup>12</sup> P.L. 93-288, 42 U.S.C. §5187(a).

<sup>13</sup> DHS/FEMA, Calendar Year Summary of Obligations, 1988-2010.

<sup>14</sup> For more information on appropriation funding lapses, see CRS Report RS20348, *Federal Funding Gaps: A Brief Overview*, by Jessica Tollestrup.

<sup>15</sup> For further analysis on emergency supplemental appropriations see CRS Report R40708, *Disaster Relief Funding and Supplemental Appropriations for Disaster Relief*, by Bruce R. Lindsay and Justin Murray.

caused by a large-scale, major disaster such as Hurricanes Katrina or Sandy.<sup>16</sup> In recent years, however, the need for assistance has been increasingly tied to a string of incidents as opposed to a single, large event.

Replenishing the DRF with supplemental appropriations has become common practice in the last 10 years. As shown in **Table 1**, in some fiscal years Congress passed two or three additional appropriations to fund the DRF.

**Table 1. Supplemental Funding for the DRF**  
(in millions of dollars)

Fiscal Year	Number of Supplemental Appropriations	Amount
2013	1	\$11,485
2012	1	\$6,400
2011	0	0
2010	1	\$5,100
2009	0	0
2008	3	\$10,960
2007	1	\$4,092
2006	2	\$6,000
2005	3	\$43,091
2004	2	\$2,500
<b>Total</b>	<b>14</b>	<b>\$89,628</b>

**Source:** Supplemental funding derived from CRS analysis of supplemental appropriations after disasters, FY2004-FY2013, with legislation obtained from the Legislative Information System at <http://www.congress.gov/index.php>.

## Budgeting the DRF

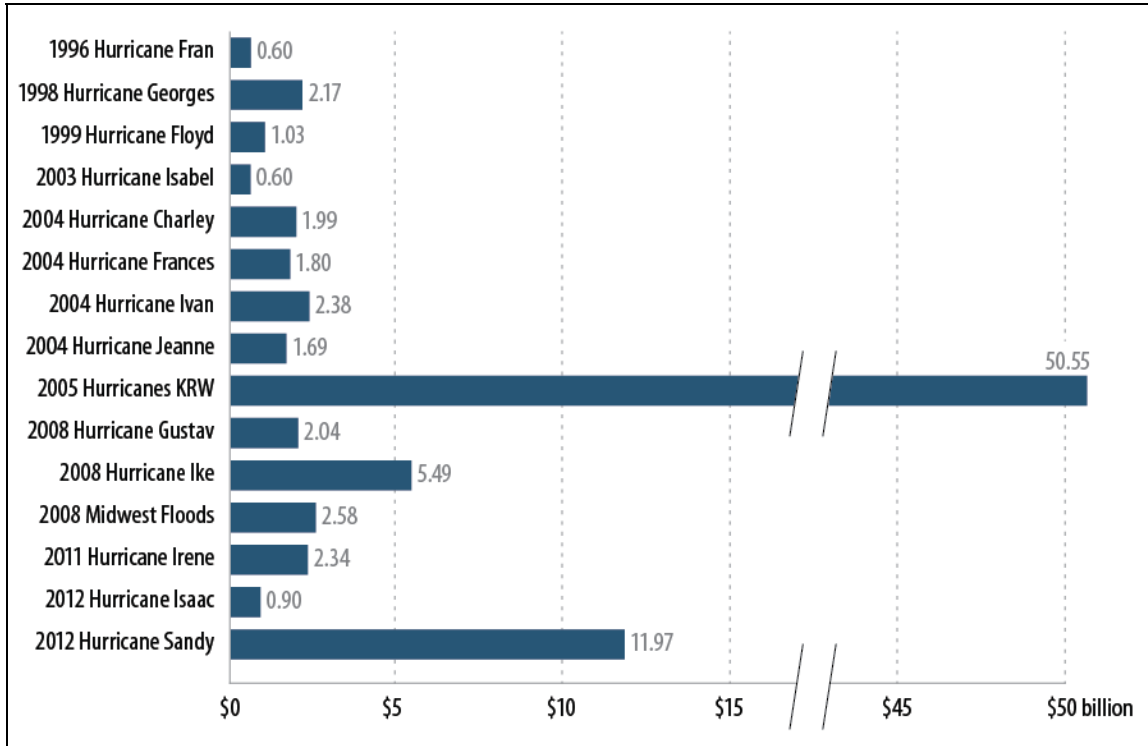
Funding the DRF at a level that meets disaster needs has been a persistent challenge for Congress. Historically chronic shortfalls in the DRF were attributed to two main factors: the previous decision not to budget for high-cost (over \$500 million) catastrophic disasters in the annual appropriations process, and the unpredictability of the distribution of disaster events over time.

**Figure 2** provides a list of major disasters that have cost more than \$500 million from FY1996 to FY2013.

Congressional concern over the number and amount of supplemental appropriations needed to fund disaster assistance has led to congressional debate concerning how the DRF should be budgeted, and whether the federal government is providing too much or too little assistance. These concerns are discussed more in depth in “The Debate over Supplemental Appropriations.”

<sup>16</sup> For more information on Hurricane Katrina funding see CRS Report R43139, *Federal Disaster Assistance after Hurricanes Katrina, Rita, Wilma, Gustav, and Ike*, coordinated by Bruce R. Lindsay and Jared C. Nagel. For more information on Hurricane Sandy funding see CRS Report R42869, *FY2013 Supplemental Funding for Disaster Relief*, coordinated by William L. Painter and Jared T. Brown.

**Figure 2. Disasters Costing FEMA \$500 Million or More**  
1996-2013 (in billions of dollars)



**Source:** Based on data obtained from <http://www.fema.gov/media-library/assets/documents/28318?id=6292>.

**Notes:** KRW denotes Katrina, Rita, and Wilma. Figures based on FEMA expenditures for disaster assistance. **Figure 2** does not provide data on disaster funding data provided by other agencies. Spending on recovery continues for many of the listed events; these amounts represent a snapshot of disaster costs as of February, 2013.

### Budgeting for the DRF Prior to the BCA

The budgetary practice used to fund the DRF generally begins with the Administration’s formulation of the annual budget request for the account. Prior to P.L. 112-25, the Budget Control Act of 2011 (hereinafter the BCA) the following data points were used to determine budget requests for the DRF: (1) the available appropriation in the DRF; (2) the monthly average of “normal,” non-catastrophic disaster costs paid from the DRF;<sup>17</sup> (3) the monthly average of catastrophic incident costs; and (4) the estimated monthly “recoveries” of unobligated funds.<sup>18</sup>

1. **Available Appropriation.** The available appropriation was a combination of prior-year funds that are carried over, the current fiscal year annual appropriation, and any supplemental appropriations.

<sup>17</sup> Normal non-catastrophic disasters are declared incidents that cost less than \$500 million. Disasters costing over \$500 million are considered outliers and are removed from the calculation.

<sup>18</sup> These may occur, for example, when funds remain unspent after a project is completed for less than the estimated cost or when a project for which funds have been obligated changes its scope and certain budgeted costs become ineligible.

2. **DRF Monthly Average.** The calculation for the DRF monthly average was based on a five-year rolling average of the cost of “normal,” non-catastrophic disasters. Normal, non-catastrophic disasters were, and continue to be, defined by FEMA as incidents that cost less than \$500 million. The rationale of excluding large events from the calculation is discussed later in this report.
3. **Monthly Cost Estimates for Catastrophic Events.** Estimates obtained from the field on pending (still open) disaster projects were routinely used in calculating monthly cost estimates.
4. **Estimated Recoveries.** Estimated recoveries represent the recovery of obligated funds that have not been used. This could include duplication of benefit funds as well as long-term projects for PA or mitigation that either were not finished, or were completed at a lower cost.

The end-of-fiscal-year projection was estimated by subtracting the cumulative DRF monthly averages and cost estimates for incidents from the available appropriation. Then, the cumulative recoveries were added back to the available balance. The DRF end-of-fiscal-year estimate was then revised on a monthly basis taking into consideration the actual obligations that were recorded in lieu of the monthly estimates, and new estimates submitted for “open” incidents.

Based on the above methodology, the average annual budget request submitted for the DRF from FY2000 to FY2011 was roughly \$2 billion. The average spend-out rate for the DRF over that same period was \$350 million per month, or \$4.2 billion a year.<sup>19</sup> It could be argued that without resources beyond the request and regular appropriation, the DRF would have faced a shortfall in its budget in an average operating year.

## **Budgeting for the DRF after the BCA**

The Balanced Budget and Emergency Deficit Control Act of 1985 (hereinafter the BBEDCA), as amended by the BCA, limits—or caps—the budget authority available for discretionary programs each fiscal year through FY2021. The BBEDCA and the BCA establish discretionary spending caps but also provide adjustments—including an adjustment to disaster relief and an unlimited adjustment for emergency designations. The allowable adjustment to the discretionary cap for disaster relief is not solely for the DRF. This allowable adjustment can be changed and there are adjustments each fiscal year by no more than the average funding provided for disaster relief over the previous 10 fiscal years—excluding the highest and lowest years—plus any amount by which the prior year’s appropriation was below the maximum allowable cap adjustment for that year. The actual adjustment is determined during the appropriations process.

FEMA reports that the BCA necessitated the development of a new, two-part approach to accounting for disaster-related activity, with one approach for major disasters and another for all other DRF activity:

Essentially, requests for DRF funding for FEMA’s Stafford Act programs and disaster support activities fall into two categories: disaster relief cap adjustment and base/non-major disasters. Funding requested under the disaster relief cap adjustment is for major disasters declared pursuant to the Stafford Act and designated by the Congress as being for disaster

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<sup>19</sup> The spend-out rate refers to the amount of money paid out of the account for a given period of time.

relief pursuant to section 251(b)(2)(D) of the BBEDCA, as amended by the BCA. Funding requested under the base/non-major disasters category includes Emergencies, Pre-disaster Surge Support, Fire Management Assistance Grants and activities that are non-disaster specific, such as Disaster Readiness Support (DRS) activities (e.g., distribution centers, reservist training, etc.).<sup>20</sup>

The funding request for major disasters is based on FEMA's spending plans for all past declared major disasters. The non-catastrophic funding request is based on a revised approach that uses a 10-year average for non-catastrophic events. FEMA argued that using a 10-year average of costs as opposed to the previous use of a 5-year average of costs "provides a more accurate projection of non-catastrophic needs since it normalizes the effects of outlier years."<sup>21</sup>

As shown in **Table 2**, FEMA's new, two-part approach to accounting for disaster-related activity has resulted in higher Administration budget requests for DRF funding. For example, as mentioned previously, from FY2000 to FY2011, the average annual DRF budget request was \$2 billion and the average annual spend-out rate was \$4.2 billion. The Administration requested almost \$6.1 billion for the DRF for FY2013 (\$5.481 billion for the disaster relief cap adjustment and \$608 million for base/non-major disasters) and nearly \$6.2 billion in FY2014 (\$5.626 billion for the disaster relief cap adjustment and \$570.5 million for base/non-major disasters).<sup>22</sup> The enactments for those years were \$7 billion and \$6.2 billion respectively.

**Table 2. Requests, Appropriations, and Supplemental Appropriations to the DRF: FY1989-FY2014**

(in millions of nominal dollars)

Fiscal Year	Administration Request	Enacted Appropriation	Supplemental	Total Appropriation
1989	\$200	\$100	\$1,108	\$1,208
1990	\$270	\$98	\$1,150	\$1,248
1991	\$270	0	0	0
1992	\$184	\$185	\$4,136	\$4,321
1993	\$292	\$292	\$2,000	\$2,292
1994	\$1,154	\$292	\$4,709	\$5,001
1995	\$320	\$320	\$3,275	\$3,595
1996	\$320	\$222	\$2,275	\$2,497
1997	\$320	\$1,320	\$3,300	\$4,620
1998	\$2,708	\$320	\$0	\$320
1999	\$2,566	\$1,214	\$1,130	\$2,344

<sup>20</sup> U.S. Department of Homeland Security, "Federal Emergency Management Agency Disaster Relief Fund: FY2013 Congressional Justification," p. 5, at [http://www.fema.gov/pdf/about/budget/11f\\_fema\\_disaster\\_relief\\_fund\\_dhs\\_fy13\\_cj.pdf](http://www.fema.gov/pdf/about/budget/11f_fema_disaster_relief_fund_dhs_fy13_cj.pdf).

<sup>21</sup> Ibid., pp. 5-6.

<sup>22</sup> Ibid., p. 5; and U.S. Department of Homeland Security, "U.S. Department of Homeland Security Annual Performance Report Fiscal Years 2012–2014," p. 11, at <http://www.dhs.gov/sites/default/files/publications/MGMT/DHS-%20Annual%20Performance%20Report%20and%20Congressional-Budget-Justification-FY2014.pdf>.

Fiscal Year	Administration Request	Enacted Appropriation	Supplemental	Total Appropriation
2000	\$2,780	\$2,780	0	\$2,780
2001	\$2,909	\$1,600	\$2,000 <sup>a</sup>	\$3,600
2002	\$1,369	\$2,164	\$7,008	\$9,172
2003	\$1,843	\$800	\$1,426	\$2,226
2004	\$1,956	\$1,789	\$2,500	\$4,289
2005	\$2,151	\$2,042	\$43,091	\$45,133
2006	\$2,140	\$1,770	\$6,000	\$7,770
2007	\$1,941	\$1,487	\$4,256	\$5,743
2008	\$1,652	\$1,324 <sup>b</sup>	\$10,960	\$12,284
2009	\$1,900	\$1,278	0	\$1,278
2010	\$2,000	\$1,600	\$5,100	\$6,700
2011	\$1,950	\$2,645	0	\$2,645
2012	\$1,800	\$7,100	\$6,400	\$13,500
2013	\$6,089	\$7,007	\$11,485	\$18,492
2014	\$5,626	\$6,220	N/A	\$6,220
<b>Total</b>	<b>\$46,710</b>	<b>\$45,969</b>	<b>\$123,084</b>	<b>\$169,278</b>

**Source:** CRS analysis of Administration budget documents and appropriations statutes.

**Notes:** **Table 2** does not include rescissions or transfers unless they have been incorporated in appropriation acts. **Table 2** also does not include appropriations made in the same act to accounts other than the DRF.

- a. P.L. 107-38 appropriated \$40 billion in response to the terrorist attacks of September 11, 2001. The legislation did not specify the amount to be allocated to the DRF, but required that not less than half must be allocated for disaster recovery and assistance associated with the airliner crashes in New York, Virginia, and Pennsylvania. On September 21, 2001, President Bush notified Congress that \$2 billion of the amount appropriated in P.L. 107-38 would be allocated to FEMA for disaster relief “in New York and other affected jurisdictions.”
- b. Does not include \$2,900 million in FY2008 emergency supplemental funding for Disaster Relief enacted by P.L. 110-116.

It appears that the allowable adjustment has allowed the DRF to be funded at historically high levels in recent years without supplementals (with the exception of the Sandy supplemental). However, this mechanism will expire, along with the caps, after FY2021. Some might question whether the problem of underfunding the DRF before the BCA will reoccur.

## DRF Monthly Report

In addition to the BCA, Congress has passed additional legislation enabling it to exercise greater control over federal disaster assistance funding. For example, since Hurricane Katrina, a number of measures have been passed requiring FEMA to publish status reports on the DRF. P.L. 109-62 requires the Inspector General of DHS to conduct audits and investigations for Hurricane Katrina response and recovery activities and for the Secretary of DHS to provide (at a minimum) a weekly report to the Committees on Appropriations detailing the allocation and obligation of

funds for Hurricane Katrina.<sup>23</sup> P.L. 109-90 requires FEMA to submit a report providing the details on allocations, obligations, and expenditures of funds from the DRF.<sup>24</sup>

The Post-Katrina Emergency Management Reform Act (P.L. 109-295, hereinafter PKEMRA) required that the report be submitted monthly and include greater detail. The report includes the status of the DRF (which consists of the obligations, allocations, and amounts that are undistributed or unallocated); information on DRF funding for Hurricanes Katrina, Rita, and Wilma; information on national flood insurance claims; and funding information by state for unemployment, crisis counseling, housing assistance, public assistance, and individual assistance. The report also provides Mission Assignment obligations by agency. The requirements established by PKEMRA have since been reauthorized through various appropriations laws.<sup>25</sup>

Perhaps one of the most useful aspects of the DRF report to policy makers is the DRF Appropriations Summary (see **Figure 3** for an example). Since the passage of the BCA, the summary report now divides funding information into “Major Declarations” and “Base” categories (costs associated with every other activity funded through the DRF—such as support activities, emergency declarations, and FMAGs) and provides information on how much funding was received for the DRF through annual and supplemental appropriations. The summary page of the report provides information on allocations, commitments, and obligations.<sup>26</sup>

The report also provides information on funds recovered from DRF-funded projects. Recoveries are often funds from projects that were completed under budget and thus can be “recovered” because they remain unspent. In addition, in some cases DRF funds are disbursed before an insurance company pays for damages. In such cases the recipient must pay back the amount provided by the insurance company. These too are considered recoveries.

In the past there have been occasions when the DRF was near depletion. In an effort to keep the DRF solvent, FEMA implemented what is known as Immediate Needs Funding (INF) guidance.<sup>27</sup> INF allows FEMA to divert funds from long-term projects to focus on immediate, lifesaving response and recovery efforts. The INF guidance stayed in effect until the DRF was replenished. FEMA typically steps up its efforts in identifying recoveries when INF guidance is implemented because retrieving recoveries has been an effective stopgap measure when the account has been low. Over the last two or three years, however, FEMA has become more adept at identifying recoveries in its day-to-day operations. As a consequence, FEMA may not be able to rely on as many recoveries in the future implementation of INF guidance. It is unclear how this might affect future efforts to keep the DRF solvent should it run low again.

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<sup>23</sup> P.L. 109-62, 119 Stat. 1991, the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005.

<sup>24</sup> P.L. 109-90, 119 Stat. 2090, the Department of Homeland Security Appropriations Act, 2006.

<sup>25</sup> These include P.L. 110-329, P.L. 111-83, P.L. 112-74, and P.L. 113-6. The DRF report is available online and can be located at <http://www.fema.gov/disaster-relief-fund>.

<sup>26</sup> For the purposes of the DRF report, allocations are funds for a particular program. Commitments are a reservation of allotted funds in anticipation of their obligation. Obligations are payments made immediately, or in the near future.

<sup>27</sup> For more information on FEMA's INF guidance see [http://www.fema.gov/media-library-data/20130726-1847-25045-6072/9570.7\\_immediate\\_needs\\_funding\\_sop.pdf](http://www.fema.gov/media-library-data/20130726-1847-25045-6072/9570.7_immediate_needs_funding_sop.pdf).



**Figure 3. FEMA's Disaster Relief Fund Monthly Report**  
 Selected Example: FY2014—Appropriation Summary

Department of Homeland Security - Federal Emergency Management Agency				
Disaster Relief Fund Congressional Monthly Report				
FY 2014 Activity				
Through 01/01/14*				
Dollars in Millions				
Status of Obligations:	Major Declarations	Base	Total	Change Since Last Report
FY 2014 APPROPRIATION /CR (1)	6,076	577	6,653	0
FY 2013 Emergency Funding	0	0	0	0
FY 2014 Supplemental	0	0	0	0
Prior Years Deobligations (Recoveries)	113	139	251	65
Prior Years Carryover	6,682	1,810	8,492	0
Transfers (2)	0	-24	-24	0
<b>FY 2014 APPROPRIATION AVAILABLE (3)</b>	<b>12,871</b>	<b>2,500</b>	<b>15,372</b>	<b>65</b>
Less: TOTAL OBLIGATIONS	1,248	75	1,323	497
<b>UNOBLIGATED BALANCE:</b>	<b>11,623</b>	<b>2,425</b>	<b>14,048</b>	<b>-432</b>
<b>Status of Commitments:</b>				
Less: TOTAL COMMITMENTS	1,250	89	1,339	487
<b>UNCOMMITTED BALANCE:</b>	<b>11,621</b>	<b>2,411</b>	<b>14,033</b>	<b>-422</b>
<b>Status of Allocations:</b>				
TOTAL ALLOCATION	1,260	160	1,420	449
Less: TOTAL OBLIGATIONS	1,248	75	1,323	497
<b>UNOBLIGATED ALLOCATION:</b>	<b>12</b>	<b>85</b>	<b>97</b>	<b>-48</b>
<b>Amount Undistributed/Unallocated</b>	<b>11,611</b>	<b>2,340</b>	<b>13,952</b>	<b>-384</b>

**NOTES:**  
 \* Data was pulled on 01/02/2014 due to the New Year's Day Holiday  
 (1) Pursuant to Sec. 110 of P.L. 113-46, OMB apportioned funding at a rate of operations equal to 29.32%, which has been made available for use thru 1-15-2014 (\$1,944M)  
 (2) Transfer to DHS OIG  
 (3) Transfer authority into the Base is capped at 10% of Base Appropriation (currently estimated at \$250M)

Source of financial information is the Integrated Financial Management Information System (IFMIS)

**Source:** Federal Emergency Management Agency (FEMA)'s monthly report FY2014, available at [http://www.fema.gov/media-library-data/1389041387749-57cc1965d8712f40ae7ffb6153fc3c3c/FEMA+DRF+Through\\_I-1-2014.pdf](http://www.fema.gov/media-library-data/1389041387749-57cc1965d8712f40ae7ffb6153fc3c3c/FEMA+DRF+Through_I-1-2014.pdf).

**Notes:** As noted by the source: "Totals that have minor discrepancies are due to rounding." (See source for more details).

## Issues for Congress

The DRF has been of congressional interest for a number of reasons. These include the amount of funding appropriated to the DRF, the appropriateness and effectiveness of providing additional funding to the DRF through supplemental appropriations, and the use of policy mechanisms to reduce the amount of funding provided to states and localities for emergency and disaster assistance. One fundamental debate that has been of concern, particularly in the light of the national debt, is the federal role in providing disaster assistance.



## The Debate over Supplemental Appropriations

There has been much debate over the supplemental appropriations for disaster assistance. Critics of the DRF budgetary process argued that the weaknesses in the methodology used to develop the budget request for the DRF led to the reliance on supplemental appropriations to fund major disasters. They argued that relying on supplemental appropriations for disaster assistance has the following drawbacks:

- supplemental appropriations for disasters often are designated as an emergency expenditure, which under congressional budgetary procedures can exceed discretionary spending limits designed to reduce the federal deficit—creating an opportunity for lawmakers to circumvent budgetary enforcement mechanisms by underfunding the DRF during the annual appropriations process to make room for other spending;
- supplemental appropriations for disasters often move through Congress on an expedited basis, limiting the amount of time available to assess actual disaster needs and scrutinize spending to ensure that the spending is appropriately scaled, targeted, and that adequate safeguards are in place to address the potential for waste, fraud, and abuse. In addition, supplemental appropriations for disasters may result in unnecessarily high funding levels, as early damage estimates may overstate actual needs; and
- supplemental appropriations for disasters provide a vehicle for non-germane provisions in the legislation that may not pass on their own, or make the appropriation legislation contentious, thus slowing down the delivery of federal disaster assistance.

Advocates of the use of supplemental disaster assistance would argue that:

- the timing and severity of disasters cannot be anticipated and appropriating a relatively large sum of funds through the regular, annual appropriations process may require Congress to reduce funding for other programs to pay for an unknown, and possibly non-existent, future event;
- the President is authorized to unilaterally determine when federal assistance is made available after a major disaster incident. Congress retains authority to control federal spending by voting on supplemental appropriations. In essence, the use of supplemental appropriations for disasters enables Congress to express its own preferences in disaster assistance;
- DRF balances may be subject to transfer or rescission, which may carry an additional negative consequence if a large disaster were to take place after the funds have been withdrawn. If this were to happen, another transfer or supplemental appropriation might be needed to address disaster needs; and
- supplemental appropriations for disasters can be sized according to the needs of the actual incident.

## Proposals to Restructure Disaster Relief Budgetary Practices

Some proposals have been advanced to further reduce the need for supplemental appropriations through the restructuring of budgetary procedures.<sup>28</sup> Some of these options include the following:

### Eliminate Any Unrelated Provisions in a Supplemental Bill

Supplemental appropriation bills may include a variety of funding and other provisions in a single bill that are unrelated to the incident. The pressing need for assistance may allow the passage of these unrelated measures. In addition, these elements could potentially prevent the passage of legislation that might pass if it were not attached to a supplemental appropriation. Prohibiting unrelated provisions may help reduce costs and eliminate controversial measures that could slow the passage of appropriations legislation.

### Increase Annual Funding to the DRF

As mentioned earlier in this report, Congress may decide to increase the funding level of the DRF through annual appropriations. Doing so could eliminate, or at least greatly decrease, the need for supplemental funding. As noted earlier, an increase in the regular annual appropriations to the DRF appears to have been one result of the passage of the BCA.

### Creation of a Rainy-Day Fund

A “rainy-day fund,” also known as a reserve account, could be financed by cuts in other discretionary accounts, or through revenue-raising measures.<sup>29</sup> Spending from this fund would then only be allowed when needed for expensive disasters. Proponents of this policy option would likely argue that, in contrast to supplemental appropriations, which increase the federal deficit through borrowing funds, rainy-day accounts do not add to the federal deficit because they are funded through savings and/or revenue-raising measures. Furthermore, the balance for a rainy-day fund would increase during periods in which there are few or relatively small disasters.

Opponents might argue that a rainy-day fund is infeasible due to the high costs of catastrophic events. For example, Congress appropriated roughly \$120 billion for Hurricane Katrina recovery efforts and \$60 billion for Hurricane Sandy. Financing a fund capable of providing funds for events such as these through budget cuts and raising revenues would be difficult. Furthermore, once raised, a large fund might be subject to rescissions and transfers.

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<sup>28</sup> U.S. Congress, Senate Bipartisan Task Force on Funding Disaster Relief, *Federal Disaster Assistance*, Report of the Senate Task Force on Funding Disaster Relief, 104<sup>th</sup> Cong., 1<sup>st</sup> sess., March 15, 1995, S.Doc. 104-4 (Washington: GPO, 1995), p. 89.

<sup>29</sup> *Ibid.*, p. For more information about the funding of reserve or contingency funds see CRS Report R41718, *Federal Deposit Insurance for Banks and Credit Unions*, by Darryl E. Getter; CRS Report R42850, *The National Flood Insurance Program: Status and Remaining Issues for Congress*, by Rawle O. King; and CRS Report R43391, *Independence of Federal Financial Regulators*, by Henry B. Hogue, Marc Labonte, and Baird Webel.

## Creation of a Contingency Fund

A contingency fund based on a cost analysis of previous disasters could be created for use after a large disaster occurs. A contingency fund could be funded at a level sufficient for large disasters, while relatively routine disasters would still be funded through the DRF. Unlike a rainy-day fund—which pays for disasters through savings and revenue generating measures—a contingency fund would receive an annual appropriation. Funds from the contingency fund would only be disbursed under certain conditions or incidents. For example, there have been discussions concerning the addition of a new category of disaster declaration known as a “catastrophic declaration” for events characterized by extraordinary devastation.<sup>30</sup> Historic events that might qualify for a catastrophic declaration are the 1906 San Francisco earthquake and fire, the terrorist attacks of September 11, 2001, and Hurricane Katrina. A catastrophic declaration might be used for a nuclear bomb explosion, a tsunami hitting a highly populated area, or an immense and destructive earthquake, among others. The contingency fund could be the funding mechanism for catastrophic incidents.

On the other hand, some might question the feasibility of a contingency fund. For one, the appropriation amount for a contingency fund capable of paying for an incident such as Hurricane Katrina or Hurricane Sandy would be significant. In addition, large supplemental appropriations for disaster assistance have rarely been contentious because there is great a deal of sympathy toward disaster victims. It may be more difficult to pass a large appropriation in the absence of an incident—particularly in light of the federal deficit. Large-scale disasters are infrequent incidents. If left unused for long periods of time, the contingency fund may need to be adjusted for inflation to meet disaster needs. The contingency fund may also be subject to transfers if the fund is perceived as an unused resource.

## Disaster Assistance Offsets

Some have proposed that supplemental funding should be “offset.”<sup>31</sup> Appropriation legislation that is fully offset has no overall net cost in budget authority or outlays. Offsets can be achieved by cutting budget authority from one account and providing it to another account, or transferring budget authority from other programs. In recent years the debate over the use of offsets for disaster relief or assistance has intensified due to the growing size of the budget deficit and national debt.

As a result of recent congressional deliberations, legislative attempts have been made to offset the costs of disaster assistance. For example, Title VI of the House-reported version of H.R. 2017, the FY2012 Homeland Security Appropriations bill, would have provided an additional \$1 billion of additional funding to the DRF by transferring resources from the Department of Energy. The provision reads as follows:

Sec. 601. Effective on the date of the enactment of this Act, of the unobligated balances remaining available to the Department of Energy pursuant to section 129 of the Continuing Appropriations Resolution, 2009 (division A of P.L. 110-329), \$500,000,000 is rescinded

<sup>30</sup> For more information on catastrophic declaration proposals see CRS Report R41884, *Considerations for a Catastrophic Declaration: Issues and Analysis*, by Bruce R. Lindsay and Francis X. McCarthy.

<sup>31</sup> For more information on offsets and supplemental appropriations see CRS Report R42458, *Offsets, Supplemental Appropriations, and the Disaster Relief Fund: FY1990-FY2013*, by William L. Painter.

and \$1,000,000,000 is hereby transferred to and merged with 'Department of Homeland Security—Federal Emergency Management Agency—Disaster Relief': Provided, That the amount transferred by this section is designated as an emergency pursuant to section 3(c)(1) of H.Res. 5 (112<sup>th</sup> Congress).<sup>32</sup>

Another example is the proposed amendment H.Amdt. 4 to Disaster Relief Appropriations Act, 2013,<sup>33</sup> in the 113<sup>th</sup> Congress, which would have provided an offset of the \$17 billion in emergency funding to address the immediate needs for victims and communities affected by Hurricane Sandy. The offset would have been achieved by an across-the-board rescission of 1.63% to all discretionary appropriations for FY2013. The amendment was not adopted.

Proponents of offsets argue that they provide a mechanism to control spending and offset the costs of disaster assistance. Opponents argue that offsets politicize disaster assistance because the program selected for the offset may have been selected because it is politically unpopular rather than being based on sound policy basis. They may also argue that the debate over the use of offsets will unnecessarily slow the delivery of needed assistance.

One potential argument against the sole reliance on offsets to limit federal spending on disaster assistance is that it fails to address the growing number of declarations issued each year. As the number of declarations increases over time, so too will their total cost. And as their total cost rises, more and more funding will be needed from other federal programs to fund offsets to subsidize disaster costs. In addition, a significant amount of funding would be needed to fully offset a large-scale disaster. Hurricanes Katrina and Sandy cost the federal government \$120 billion and \$60 billion respectively. As such, critics might argue that the sheer size of the offset might negatively impact other parts of the federal budget.

## Proposals for Managing Declarations

Restructuring the budgetary process is one approach that may reduce the need for supplemental funding to pay for major disasters. Another approach would be to use various policy mechanisms to reduce the amount of funding the federal government provides for disaster assistance. These include reforming the declaration process, adjusting the federal share for assistance, and shifting some of the responsibility for paying for recovery to the state and/or the private sector.

## Rationale for Keeping Declaration Policies and Disaster Assistance the Same

To many, providing relief to disaster victims is an essential role of the federal government. In their view, while the concern over costs is understandable given the potential impact of disaster assistance on the national budget, the number of declarations being issued each year and their associated costs are justified given the immediate and long-term needs created by incidents. They may further argue that providing assistance to disaster-stricken areas is both acceptable and needed to help a state and region's economy recover from an incident that it otherwise may not be

<sup>32</sup> This section was added in full committee markup of the legislation. For a more in-depth discussion of procedural considerations for offsetting amendments, see CRS Report RL31055, *House Offset Amendments to Appropriations Bills: Procedural Considerations*, by Jessica Tollestrup.

<sup>33</sup> P.L. 113-2.

able to recover from on its own. In addition, the costs of disasters should be expected given changes in severe weather patterns, as well as increases in population size and development.<sup>34</sup>

## Limiting the Number of Major Disaster Declarations

Some may contend that too many major disasters are being declared and should be limited. Limiting the number of declarations could produce savings because declarations trigger funding for the DRF. The following sections review some policy mechanisms that could be employed to decrease the number of declarations that are being issued.

One option consists of preventing what may be perceived by some to be “marginal incidents” from triggering federal assistance. For example, some might question if a snowstorm or an ice storm are incidents that truly exceed the state’s response capacity. They may further question whether these incidents are worthy of federal assistance. Potential methods for eliminating marginal incidents include changing the definitions of a major disaster in the Stafford Act, changing the per capita formula for determining whether a disaster is sufficiently large to warrant federal assistance, or the use of other indicators instead of, or in conjunction with, the per capita formula.

## Changing the Definition of Major Disaster in the Stafford Act

Some argue that the Stafford Act has enhanced presidential declaration authority because the definition of a major disaster in Section 102(2) of the Stafford Act is, in their view, ill-defined.<sup>35</sup> Because of the expansive nature of this definition under the Stafford Act, they assert, there are not many restrictions on the types of major disasters for which the President may issue a declaration.<sup>36</sup> As noted previously, some would argue that snowstorms do not warrant major disaster declarations.

Operationally, changing the definition of a major disaster could also mean changing the definition(s) of the criteria used by FEMA to determine whether or not a major disaster is warranted.<sup>37</sup>

## Changing the Per Capita Formula

One potential method of reducing the number of major disasters being declared is to increase the per capita amount used by FEMA to make major disaster recommendations to the President. A per capita formula based on damages caused by an incident is used by FEMA to make recommendations to the President concerning whether to issue a major disaster declaration. The current per capita amount used by FEMA to make recommendations is \$1.32. Essentially, the estimated amount of public property damages caused by the incident is divided by the state’s population. In general, if that amount exceeds \$1.32 per person (in that state) FEMA will make a

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<sup>34</sup> For information on disaster trends see CRS Report R42702, *Stafford Act Declarations 1953-2011: Trends and Analyses, and Implications for Congress*, by Bruce R. Lindsay and Francis X. McCarthy.

<sup>35</sup> P.L. 93-288, 42 U.S.C. §5122.

<sup>36</sup> Richard T. Sylvester, *Disaster Policy and Politics: Emergency Management and Homeland Security* (Washington, DC: CQ Press, 2008), p. 79.

<sup>37</sup> These criteria include a per capita formula and state capacity indicators, among others.

recommendation to the President that a major disaster declaration should be issued. The per capita amount of \$1.32 could be increased (for example, by 10%) to reduce the number of incidents eligible for federal assistance.

The DHS Inspector General issued a report in May 2012 which noted that FEMA had been using a \$1 per capita damage amount since 1986 to determine its recommendation (during its preliminary damage assessment process) to the President whether an event warranted federal assistance. The DHS Inspector General also explained that FEMA did not begin adjusting that number for inflation until 1999. The DHS Inspector General pointed out that if the inflation adjustment had been occurring over that 13-year period, from 1986 to 1999, fully 36% fewer disasters would have qualified for a presidential declaration based on that factor.<sup>38</sup>

The actual public announcement of factors used in considering a declaration did not become public until 1999. Until then, all of that information had been within the “pre-decisional” part of the process in the executive branch. That is not to say FEMA was not using the per capita amount in its considerations, only that the process was not widely known or understood as it presently is. As the DHS Inspector General noted, FEMA could have been raising that amount gradually since 1986. It is worth noting that when FEMA discussed such proposals (e.g., per capita figures gradually increasing) with Congress, the result was an amendment to the Stafford Act prohibiting the preclusion of a geographic area from receiving assistance solely by virtue of an arithmetic formula or sliding scale based on income or population.<sup>39</sup>

## The Use of State Capacity Indicators

In 2001, the Government Accountability Office (GAO) issued a report on disaster declaration criteria. The GAO report was a comprehensive review of FEMA’s declaration criteria factors. GAO recommended that FEMA “develop more objective and specific criteria to assess the capabilities of state and local governments to respond to a disaster” and “consider replacing the per capita measure of state capacity with a more sensitive measure, such as a state’s total taxable resources.”<sup>40</sup>

The state’s Total Taxable Resources (TTR) were developed by the Department of the Treasury. GAO reported that TTR:

is a better measure of state funding capacity in that it provides a more comprehensive measure of the resources that are potentially subject to state taxation. For example, TTR includes much of the business income that does not become part of the income flow to state residents, undistributed corporate profits, and rents and interest payments made by businesses to out-of-state stock owners. This more comprehensive indicator of state funding capacity is currently used to target federal aid to low-capacity states under the Substance Abuse and Mental Health Service Administration’s block grant programs. In the case of FEMA’s Public Assistance program, adjustments for TTR in setting the threshold for a

<sup>38</sup> Department of Homeland Security, Office of Inspector General, *Opportunities to Improve FEMA’s Public Assistance Preliminary Damage Assessment Process*, pp. 5-7.

<sup>39</sup> 42 U.S.C. 5163. P.L. 100-707, the Major Disaster Relief and Emergency Assistance Amendments of 1987.

<sup>40</sup> U.S. Government Accountability Office, *Disaster Assistance; Improvement Needed in Disaster Declaration Criteria and Eligibility Assurance Procedures*, GAO-01-837, August 2001, p. 21.



disaster declaration would result in a more realistic estimate of a state's ability to respond to a disaster.<sup>41</sup>

It could be argued that the use of TTR would conflict with the prohibition against the use of arithmetic formulas established by Congress. However, just as FEMA's per capita measurement is one of several factors considered and not the "sole" determinant of a declaration, GAO stated that TTR would not violate Section 320 because TTR could also be used with other criteria such as those identified in regulations. Thus, some could contend that TTR could fill a similar role with perhaps more accuracy. TTR advocates also argue that it may also help reduce federal costs for disaster assistance by denying assistance to marginal incidents that could be otherwise handled by the state.

## Expert Panels

Some have proposed the use of an independent expert panel to review gubernatorial requests for major disaster declarations.<sup>42</sup> Such panels would be comprised of individuals with specialized knowledge in certain subject areas, such as disasters, economics, and public health. The panel would take into account the severity of the incident as well as other factors that might indicate how well the state could respond to and recover from the incident. The panel would then make recommendations to the President whether the circumstances of the incident were worthy of federal assistance based on their assessment.

Some might argue that the use of an expert panel would make decisions about whether to provide assistance more objective. Others might argue that the use of a panel may slow down the declaration process and impede the provision of important assets and resources. It may be argued that the panel's recommendation would infringe on the President's authority to issue a declaration. On the other hand, it could also be argued that the President would retain the authority to issue a declaration despite the panel's recommendation.

## Emergency Loans

Another potential method to reduce the number of declarations and the costs of federal disaster assistance would be to create incentives to dissuade states from requesting assistance. One method would be converting some, or all, federal assistance provided through emergency declarations into a loan program. For example, emergency declarations could be altered to provide up to a specified amount (for example, \$5 billion) in low-interest recovery loans rather than or in addition to assistance grants.<sup>43</sup> Under this arrangement a state could elect to handle the incident without federal assistance rather than having to reimburse the federal government for recovery loans.

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<sup>41</sup> Ibid, p. 11.

<sup>42</sup> For example, S. 1630, the Disaster Recovery Act of 2011, which was introduced on September 23, 2011, would have amended the Stafford Act to authorize the President to declare a catastrophic incident if a recommendation was issued by an independent panel of experts.

<sup>43</sup> FEMA must notify Congress when an incident exceeds \$5 million. Additional spending for the incident, if needed, must be authorized by Congress.

Similarly, another potential option would be expanding FEMA's Community Disaster Loan (CDL) program to include loans for disaster recovery.<sup>44</sup> Currently, the CDL program provides loan assistance to local governments that are having difficulty providing government services because of a loss in tax or other revenue following a disaster. The program assists local governments by offering federal loans to compensate for this temporary or permanent loss in local revenue.<sup>45</sup>

## Proposals to Change Stafford Act Provisions

The following section discusses some potential changes to the Stafford Act that might limit the number of declarations being issued each year and thus reduce the demand for DRF funding.

### Repeal Section 320

Section 320 of the Stafford Act restricts the use of an arithmetic or sliding scale to provide federal assistance. Repealing Section 320 would allow formulas that establish certain thresholds that states would have to meet to qualify for assistance. This might make declarations less discretionary and more predictable.

### Amend Section 404

Section 404 of the Stafford Act<sup>46</sup> authorizes the President to contribute up to 15% of the cost of an incident toward mitigation measures that reduce the risk of future damage, loss of life, and suffering.<sup>47</sup> Section 404 could be amended to make mitigation assistance contingent on state codes being in place prior to an event. For example, states that have met certain mitigation standards could be eligible for a higher federal contribution for mitigation measures than states that do not meet the standards. The amendment may incentivize mitigation work on behalf of the state and possibly help reduce damages to the extent that a request for assistance is not needed, or the cost of the federal share may be lessened. The amendment could be set to take effect in five years, giving states time to act, or not.

### Other Potential Amendments to the Stafford Act

Other amendments to the Stafford Act could either limit the number of declarations being issued, or the amount of assistance provided to the state by the federal government.

- The Stafford Act could be amended so that federal assistance would only be available for states with corollary programs (such as Public Assistance, Individual Assistance, and housing assistance). Establishing these programs at the state level may increase state capacity to handle some incidents without

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<sup>44</sup> For more information on the Community Disaster Loan program see CRS Report R42527, *FEMA's Community Disaster Loan Program: History, Analysis, and Issues for Congress*, by Jared T. Brown.

<sup>45</sup> The CDL program is funded through the Disaster Assistance Direct Loan Program account, rather than the DRF.

<sup>46</sup> 42 U.S.C. §5170c.

<sup>47</sup> For more information on hazard mitigation grants see CRS Report R40471, *FEMA's Hazard Mitigation Grant Program: Overview and Issues*, by Natalie Keegan.



- federal assistance. The amendment could be designed to take effect in five years, giving states time to act, or not.
- The Stafford Act could be amended to discontinue all assistance for snow removal unless directed by Congress. The amendment could be designed to take effect in five years to give states and localities an opportunity to increase snow removal budgets, or not.

## Reducing the Amount of Assistance Provided through Declarations

### *Adjust the State Cost-Share*

Under the Stafford Act, the federal share for assistance paid out of the DRF is 75%. In other words, state and local governments currently provide 25% of disaster costs on projects and grants to families and individuals with the federal government assuming 75% of all costs. However, it is useful to note that the 75% federal share can be increased if damages reach certain thresholds.<sup>48</sup> Some may contend, however, that efforts should be undertaken to reduce disaster costs by shifting more of the costs to the state and local levels by adjusting cost-shares.

**Table 3** and **Figure 4** provide a hypothetical example of how adjusting cost-shares could potentially reduce federal funding for major disasters. The second column of **Table 3** represents federal obligations and supplemental appropriations that have been provided for selected incidents. The federal share for some of the incidents was greater than 75% (such as Hurricanes Katrina and Ike which, in some instances, received 100% of the federal share for certain programs). However, for the purposes of **Table 3** and **Figure 4** it is assumed that the federal share is 75%. If the federal share for disaster assistance was reduced by 10% (see third column), federal assistance would be reduced by a total of \$21.5 billion. If the federal share was reduced by 25% (see column 4), federal assistance would be reduced by a total of \$53.9 billion (nearly enough to offset the federal costs for Hurricane Sandy).

These savings are just for the large-scale disasters selected for this example. It is unclear how much savings could be garnered by reducing the federal share for all major disasters, but they could be significant.

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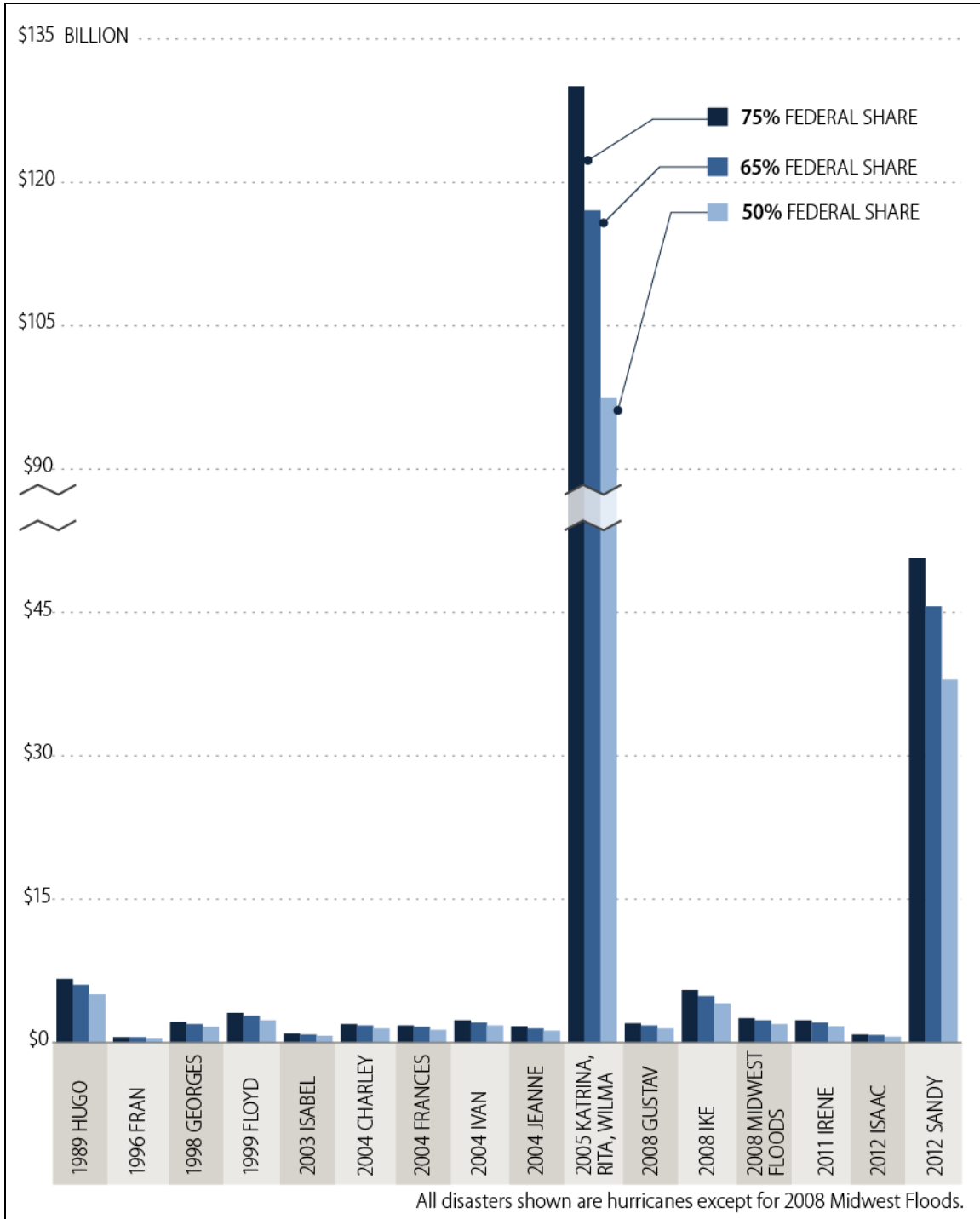
<sup>48</sup> For additional discussion on this topic see CRS Report R41101, *FEMA Disaster Cost-Shares: Evolution and Analysis*, by Francis X. McCarthy.

**Table 3. Examples of Select Potential Cost-Share Adjustments**  
 (\$= federal share of disaster costs)

<b>Incident</b>	<b>75% Federal Share</b>	<b>65% Federal Share</b>	<b>50% Federal Share</b>
1989 Hurricane Hugo	\$6,706,217,000	\$6,035,595,300	\$5,029,662,750
1996 Hurricane Fran	\$604,802,216	\$544,321,994	\$453,601,662
1998 Hurricane Georges	\$2,172,778,590	\$1,955,500,731	\$1,629,583,943
1999 Hurricane Floyd	\$3,141,584,000	\$2,827,425,600	\$2,356,188,000
2003 Hurricane Isabel	\$938,673,000	\$844,805,700	\$704,004,750
2004 Hurricane Charley	\$1,985,931,385	\$1,787,338,247	\$1,489,448,539
2004 Hurricane Frances	\$1,798,030,989	\$1,618,227,890	\$1,348,523,242
2004 Hurricane Ivan	\$2,383,249,989	\$2,144,924,990	\$1,787,437,492
2004 Hurricane Jeanne	\$1,691,106,423	\$1,521,995,781	\$1,268,329,817
2005 Hurricanes Katrina, Rita, Wilma	\$129,999,411,000	\$116,999,469,900	\$97,499,558,250
2008 Hurricane Gustav	\$2,043,546,976	\$1,839,192,278	\$1,532,660,232
2008 Hurricane Ike	\$5,486,394,054	\$4,937,754,649	\$4,114,795,541
2008 Midwest Floods	\$2,581,525,003	\$2,323,372,503	\$1,936,143,752
2011 Hurricane Irene	\$2,340,660,813	\$2,106,594,732	\$1,755,495,610
2012 Hurricane Isaac	\$900,343,795	\$810,309,416	\$675,257,846
2012 Hurricane Sandy	\$50,700,000,000	\$45,630,000,000	\$38,025,000,000
Total	\$215,474,255,233	\$193,926,829,710	\$161,605,691,425
<b>Difference from 75% Share</b>		<b>\$21,547,425,523</b>	<b>\$53,868,563,808</b>

**Source:** Data derived from CRS interpretations of supplemental appropriations, government studies, and reports.

**Figure 4. Examples of Select Potential Cost-Share Adjustments**  
 (\$ = federal share of disaster costs)



**Source:** Data derived from CRS interpretations supplemental appropriations, government studies, and reports.

**Notes:** A break in the funding data was used to display the funding information.

There is no statutory limit on the number of people that can be helped following a disaster.<sup>49</sup> Similarly, when assessing damage to state and local infrastructure there is no cap on the amount of federal funds that can be expended to make the repairs or accomplish a replacement. The only limitation is that the damage must be to eligible facilities and that it is disaster-related damage.

Given that open-ended commitment by the federal government, some may argue that increasing the state share of 25% to a higher percentage would be warranted given the federal government's fiscal condition and competing priorities. Another option would be to make the cost-share arrangement not subject to administrative adjustment. Instead, the cost-share could only be adjusted through congressional action.

While some might contend that adjusting the federal cost-share would be an effective mechanism for reducing federal disaster costs, others might argue doing so would be burdensome to states and localities. For example, Arizona would have had to pay roughly \$1.4 million to meet a 50% matching requirement for the Wallow Fire in 2010.<sup>50</sup>

### ***Disaster Loans***

As mentioned previously, the assistance provided for emergency declarations could be provided through the form of loans. Similarly, some or all of the assistance provided to the state after a major disaster could be converted to low-interest or no-interest loans through the CDL program. For example, a state may receive the traditional 75% cost-share amount for an incident but be required to reimburse 25% of that total funding to the federal government. Loans for disaster recovery could also be incentivized. For instance, states that undertook certain pre-established preparedness and/or mitigation measures could qualify for a larger federal share or a lower interest rate.

## **Other Potential Policy Proposals**

### **Oversight on Reporting**

A 2006 Government Accountability Office (GAO) report indicated there was a need to improve the information in FEMA's weekly reports on the status of hurricane relief, and that OMB should take action to improve transparency and accountability regarding the status of hurricane-related funding.<sup>51</sup> Both OMB and FEMA agreed that these improvements were needed and would be forthcoming. Congress could authorize oversight mechanisms to investigate the extent to which FEMA has made such improvements. For example, Section 203 of H.R. 5351 (introduced in the 109<sup>th</sup> Congress) would have required each state, local, tribal, and non-profit entity that received federal assistance funds in response to catastrophic events or other emergencies to report to the pertinent federal agency six months after the initial disbursement of resources. Furthermore, the legislation would have also required any agency that disbursed federal assistance funds to report to the Inspector General of the department the purpose for which resources were provided, the

<sup>49</sup> There is however, a limit on how much any one household can receive (\$32,200 at the time of this report).

<sup>50</sup> Based on estimation of FEMA obligations for the incident.

<sup>51</sup> U.S. Government Accountability Office, *Disaster Relief: Governmentwide Framework Needed to Collect and Consolidate Information to Report on Billions in Federal Funding for the 2005 Gulf Coast Hurricanes*, GAO-06-834, September 2006.

amounts disbursed, allocated, and expended, and the status of reporting by agencies that received disbursements.

## Concluding Policy Questions

Since the 1950s, the level of financial assistance given to states for disaster relief by the federal government has steadily increased. In light of stated concern with the federal deficit, the increased federal involvement has raised policymaking questions concerning how disaster relief should be equitably funded. Some of these questions include the following:

- The model for emergency and disaster response is built on the premise that emergencies and disasters are local. Requests for assistance from the next level of government are made only if the lower unit of government is overwhelmed. Some would argue that some incidents funded by the federal government do not meet this requirement. An example might be snow removal or repairs after minor flooding. Is the federal government funding emergency and major disaster declarations that do not meet the criterion of the states being overwhelmed before requesting assistance? Are states using federal funding for disaster relief to protect their own budgets?
- Should federal disaster relief be subject to thresholds and maximums? For example, an emergency or major disaster might not receive federal funding unless damage estimates reach a certain level. While the current system does use a per capita amount, that level could be increased. As another example, the total amount of federal relief for an event could be capped at a certain amount. After this level has been reached, the state would then be responsible to pay for the rest of recovery.
- Should the state's fiscal capability factor into disaster relief? In 1986, FEMA proposed measures to reduce the amount the agency contributed toward disaster relief. One of the proposals argued that funding allocations should be made according to each state's ability to fund its own disaster relief. The determination would be based on a comparison of the state's per capita income with the national per capita income.<sup>52</sup> The calculation would then be used to create a sliding scale for assistance. States capable of funding their own disaster relief would receive limited or no assistance. In contrast, struggling communities would be eligible to receive more federal assistance.<sup>53</sup>
- Is federal assistance to states and localities unintentionally creating a disincentive for states and localities to prepare for emergencies and major disasters? Some may argue that federal funding for disaster relief through regular annual appropriations has become entrenched to the point that it has contributed to unintended consequences. For example, it has been argued that some states do

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<sup>52</sup> U.S. Congress, House Committee on Public Works and Transportation, Subcommittee on Investigations and Oversight, *The Federal Emergency Management Agency's Proposed Disaster Relief Regulations (Budget Driven Rulemaking)*, committee print, 100<sup>th</sup> Cong., 1<sup>st</sup> sess., August 1987, 75-963 (Washington: GPO, 1987), pp. 4-5.

<sup>53</sup> Under current law (42 U.S.C. 5163) areas cannot be precluded from receiving assistance *solely* on the basis of a sliding scale or formula. Congress amended the Stafford Act with Section 320 as a response to the 1986 proposed regulation.

not properly fund mitigation measures because there is a presumption that federal funding is virtually guaranteed should an emergency or major disaster occur.<sup>54</sup>

Those advocating this position could arguably point out that federal involvement in disaster relief will continue to increase and that in order to be fiscally responsible, changes should be made in the way in which disaster relief is funded. Others may claim the function of the federal government is to help states in their time of crisis. From this perspective, withholding or limiting the amount of funding a state could receive for an incident would be neglectful of that state's needs.

- As mentioned earlier, funding the DRF at a higher level through annual appropriations may give some the perception that the funds are not being used and could therefore be subject to rescissions or transfers. If larger appropriations for the DRF witnessed since the enactment of the BCA continue, will there be a temptation to transfer unobligated funds to other disaster assistance programs not authorized by the Stafford Act? For example, could the funds from the DRF be used to fund drought relief programs provided by the United States Department of Agriculture, or to fund fire assistance provided by the Department of the Interior?<sup>55</sup> Would subsidizing other assistance programs negate the benefit of having a larger appropriation?

These and other questions may be raised should Congress elect to debate the past and future funding of disaster relief.

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<sup>54</sup> See James F. Miskel, *Disaster Response and Homeland Security: What Works, What Doesn't* (Westport, CT: Praeger Security International, 2006), or Rutherford H. Platt, *Disasters and Democracy: The Politics of Extreme Natural Events* (Washington, DC: Island Press, 1999) for arguments against increased federal involvement in disaster assistance.

<sup>55</sup> For more information on federal funding for wildfires see CRS Report RL33990, *Federal Funding for Wildfire Control and Management*, by Kelsi Bracmort. For more information on drought assistance see CRS Report RL34580, *Drought in the United States: Causes and Issues for Congress*, by Peter Folger, Betsy A. Cody, and Nicole T. Carter.