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Assistance After Hurricanes and Other Disasters: FY2004 and FY2005 Supplemental Appropriations

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Assistance After Hurricanes and Other Disasters: FY2004 and FY2005 Supplemental Appropriations

Summary

After a series of devastating hurricanes struck Florida and other states in the summer of 2004, the 108th Congress passed two emergency supplemental appropriations statutes that provide a total of \$16.475 billion to areas stricken by the hurricanes and other natural disasters. The House and Senate quickly approved legislation (H.R. 5005) the day after President Bush submitted a request on September 6 for \$2 billion in FY2004 funding, largely in response to the devastation caused by Hurricanes Charley and Frances in Florida. The President signed the bill into law (P.L. 108-303) on September 7. All of the \$2 billion was for assistance provided by the Federal Emergency Management Agency (FEMA).

The second supplemental, for FY2005, largely reflected four other requests submitted to Congress after Hurricanes Ivan and Jeanne continued the run of damage in Florida and other southern and eastern states. After weeks of debate, Congress agreed to incorporate revised provisions from a House-passed supplemental disaster measure (H.R. 5212) into the FY2005 Military Construction Appropriations Act (H.R. 4837). President Bush signed the legislation (P.L. 108-324) on October 13, 2004. Division B of P.L. 108-324 contains \$14.475 billion in supplemental funding, including \$6.5 billion for additional FEMA assistance, \$3.45 billion for agricultural losses and recovery for 2003 and 2004, \$1.2 billion for emergency highway funds, and \$929 million to cover the cost and administration of Small Business Administration loans, among other provisions. A portion of the agricultural spending was offset by a \$2.858 billion reduction in spending for an agricultural conservation program over a multi-year period, with reductions beginning in FY2008.

While few debated the need for federal disaster assistance, considerable discussion occurred on the scope of the legislation. Members representing midwestern and western states contended that the continuing drought affecting their farming constituents constituted a disaster that required aid beyond that previously provided. The Administration did not request agricultural aid to producers in states not affected by the hurricanes. The other issue that was a matter of public debate focused on a proposed amendment in the House to fully offset the cost of the FY2005 supplemental through a proportional reduction in discretionary funds; the House rejected the amendment.

This report will not be updated.

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Assistance After Hurricanes and Other Disasters: FY2004 and FY2005 Supplemental Appropriations

Recent Developments

President Bush signed the Military Construction Appropriations Act, FY2005 (H.R. 5212, P.L. 108-324) on October 13, 2004. Division B of the statute comprises the Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, FY2005, which appropriated an estimated \$14.5 billion for disaster assistance. The President's approval followed weeks of debate over four supplemental appropriations requests submitted to Congress after a series of hurricanes struck Florida and other states in August and September. Prior to approval of H.R. 5212, the 108th Congress had expeditiously enacted legislation (H.R. 5005) on September 6 that appropriated \$2 billion for disaster relief needed in the immediate aftermath of Hurricanes Charles and Frances; the President signed the legislation (P.L. 108-303) on September 7.

Overview

For the first time in roughly a hundred years a single state endured four major hurricanes in the span of weeks. From mid-August through mid-September 2004, Hurricanes Charley, Frances, Ivan, and Jeanne resulted in billions of dollars of insured and uninsured damages in Florida.¹ In addition to the four major disaster declarations issued by President Bush in Florida for each of the hurricanes, declarations were issued after the hurricanes and related storms caused severe losses in 11 other states.² Also, agricultural producers in many midwestern and western states have struggled for the last several years with drought conditions and other weather extremes. Taken at a glance, calendar year 2004 may close as the most financially costly year for natural disasters.

In light of these losses, and those associated with other disasters throughout the nation, the Bush Administration submitted three supplemental appropriations requests for FY2004 between September 6 and October 5, 2004 that totaled approximately \$14 billion. In response to the initial request on September 6 for \$2 billion, Congress approved legislation (H.R. 5005) to appropriate the funds; the

¹ Damage estimates require weeks of effort as damage survey teams assess the extent of destruction. According to one news report insured losses may exceed \$20 billion; see [<http://www.klfy.com/Global/story.asp?S=2325982&nav=7k7cR7af>], visited Oct. 6, 2004.

² A "major disaster declaration" may be issued by the President if a governor certifies that the affected state has suffered damages that require federal assistance. For more information see page 9 of this report. For a list of states in which major disaster declarations have been issued, see [<http://www.fema.gov/news/disasters.fema?year=2004#diz>], visited Oct. 7, 2004.

President signed the bill on September 7 (P.L. 108-303). This appropriation was provided to the Department of Homeland Security (DHS) to ensure that disaster relief assistance administered by the Federal Emergency Management Agency (FEMA) would be funded.

A subsequent funding request submitted to Congress on September 14 was incorporated by the House into H.R. 5072, which received no action as Congress and the Administration waited for the damage estimates associated with two other hurricanes.

Following the destruction caused by Hurricanes Ivan and Jeanne, the Administration submitted three additional requests for supplemental funding on September 27 and October 5 and 7, 2004.³ Two other bills were subsequently introduced in the House (H.R. 5212, H.R. 5227) to appropriate supplemental FY2005 funds. Congress debated the provisions in the closing days (October 9 through 11) of the second session. The House reportedly planned on incorporating the disaster supplemental funding into the FY2005 appropriations bill (H.R. 4567) for the Department of Homeland Security (DHS). The Senate had incorporated \$3 billion in emergency agricultural assistance into H.R. 4567 on September 14.

Just prior to the election recess conferees agreed to incorporate the FY2005 disaster supplemental into the FY2005 Military Construction Appropriations Act (H.R. 4837). The President signed the bill into law (P.L. 108-324) on October 13, 2004. Division B of P.L. 108-324 contains \$14.475 billion in supplemental funding, including \$6.5 billion for additional FEMA assistance, \$3.45 billion for agricultural losses and recovery for 2003 and 2004 disasters, \$1.2 billion for emergency highway funds, and \$929 million to cover the cost and administration of Small Business Administration loans, among other provisions. A portion of the agricultural spending was offset by a \$2.858 billion reduction in spending for an agricultural conservation program over a multi-year period, with reductions beginning in FY2008.

Table 1 of this report presents summary information on the administration requests and congressional action taken on supplemental disaster relief funding for FY2004 and FY2005.

³ The fifth request consolidated the second, third, and fourth requests that had previously been submitted. For administration documents on all of the requests, see U.S. Office of Management and Budget, "Estimate #9, FY2004 Emergency Supplemental: Department of Homeland Security Federal Emergency Management Agency (FEMA), Disaster Relief Associated with Hurricanes Charley and Frances," available at [http://www.whitehouse.gov/omb/budget/amendments/supplemental_9_6_04.pdf]; "Estimate #11, Emergency Supplemental: Hurricanes Charley and Frances (Various Agencies), 9/14/04," available at [http://www.whitehouse.gov/omb/budget/amendments/supplemental_9_14_04.pdf]; "Estimate #13, Emergency Supplemental: Hurricanes Ivan and Jeanne (Various Agencies), 9/27/04," at [http://www.whitehouse.gov/omb/budget/amendments/supplemental_9_27_04.pdf]; "Estimate #14, Emergency Supplemental: Hurricanes Charley, Frances, Ivan and Jeanne (Various Agencies), 10/5/04," at [http://www.whitehouse.gov/omb/budget/amendments/supplemental_10_5_04.pdf]; and "Supplemental — October 7, 2004: Additional Hurricane Related Assistance, 10/7/04," at [http://www.whitehouse.gov/omb/budget/amendments/supplemental_10_7_04.pdf], all visited Oct. 12, 2004.

Table 1. FY2004, FY2005 Supplemental Appropriations After Hurricanes and Other Disasters
(\$ in millions)

Federal agency/account	Request ^A	P.L. 108-303 & P.L. 108-324 ^{A,B}
Departments		
<i>Department of Agriculture</i>		
Commodity Credit Corporation — Disaster Assistance	419	3,016
Farm Service Agency	100	100
Forest Service	113	113
Natural Resources Conservation Service	250	250
Rural Community Advancement Program	68	68
Rural Housing Service	18	18
<i>Dept. of Agriculture subtotal (before offset) ^C</i>	<i>968</i>	<i>3,565</i>
<i>Department of Commerce</i>		
National Oceanic & Atmospheric Administration	12	21
<i>Department of Defense — Civil, Corps of Engineers</i>		
General investigations, construction	63	63
Operation and maintenance, general	145	145
Flood control and coastal emergencies	148	148
Flood control, specified states	6	16
<i>Dept. of Defense — Civil, subtotal</i>	<i>362</i>	<i>372</i>
<i>Department of Defense — Military</i>		
Military construction	169	169
Operation and Maintenance	751	751
Procurement	143	143
Defense Health Program	12	12
Revolving and Management Funds	4	4
<i>Department of Defense — Military, subtotal</i>	<i>1,080</i>	<i>1,080</i>
<i>Department of Health and Human Services</i>		
Dept. Management / Health and social services	50	50
<i>Department of Homeland Security</i>		
Emergency Preparedness and Response / Disaster relief fund ^D	8,500	8,500
Dept. of Homeland Security / Coast Guard	33	33
<i>Dept. of Homeland Sec. subtotal</i>	<i>8,533</i>	<i>8,533</i>
<i>Department of Housing and Urban Development</i>		
<i>Community planning and development</i>	<i>150</i>	<i>150</i>
<i>Department of the Interior</i>		
Dept. of the Interior / Fish and Wildlife Service	41	41
Dept. of the Interior / U.S. Geological Survey	1	1
Dept. of the Interior / National Park Service	51	51

Federal agency/account	Request ^A	P.L. 108-303 & P.L. 108-324 ^{A,B}
Dept. of the Interior / Bureau of Reclamation	0	5
<i>Dept. of the Interior, subtotal</i>	92	98
<i>Department of Justice</i>		
Federal Prison System	24	24
<i>Department of Transportation</i>		
Federal Aviation Administration ^E	30	30
Federal Highway Administration ^F	1,202	1,202
<i>Dept. of Transportation subtotal</i>	1,232	1,232
<i>Department of Veterans Affairs</i>		
Medical services	38	38
Medical facilities	47	47
Medical administration	2	2
Construction and Operating Expenses	37	37
<i>Dept. of Vet. Affairs subtotal</i>	124	124
Other Agencies		
Agency for International Development	100	100
Environmental Protection Agency	3	3
National Aeronautics and Space Administration	126	126
Small Business Administration	929	929
Executive Office of the President / Amer. Red Cross	70	70
<i>Other Agencies Subtotal</i>	1,228	1,228
Summary:		
P.L. 108-303 (Total: all for Disaster Relief Fund)	2,000	2,000
P.L. 108-324 (Total before offset)	11,855	14,475
Grand Total: (Before offset)	13,855	16,475
Dept. of Agriculture Conservation Security Program (offset) ^C	0	(2,858)
Grand Total — (After offset) ^G	13,855	13,617

Sources: ^A Data on administration requests obtained from Congressional Budget Office computer run dated October 14, 2004 and from “Supplemental — October 7, 2004: Additional Hurricane Related Assistance, 10/7/04,” at [http://www.whitehouse.gov/omb/budget/amendments/supplemental_10_7_04.pdf], visited Oct. 12, 2004. P.L. 108-324 based on conference report text available at [[http://www.congress.gov/cgi-lis/cpquery/R?cp108:FLD010:@1\(hr773\)](http://www.congress.gov/cgi-lis/cpquery/R?cp108:FLD010:@1(hr773))], visited Oct. 22, 2004. See also data at the House Appropriations Committee website, [http://appropriations.house.gov/_files/disastersupconf.pdf], visited Oct. 22, 2004.

^B P.L. 108-303 appropriated \$2 billion for the Disaster Relief Fund, as requested. All other supplemental funding was provided in P.L. 108-324.

^C P.L. 108-324 includes a cap on the authorized level of spending for the Conservation Security Program, a USDA mandatory program authorized by the 2002 farm bill. The cap is over a 10-year period that does not take effect until FY2008. Total savings of \$2.8 billion reflected at the end of Table 1.

^D The total request and appropriation includes \$2 billion in P.L. 108-303 and \$6.5 billion in P.L. 108-324.

^E Funds derived from the airport and airway trust fund.

^F Funds derived from the Highway Trust Fund.

^G Total reflects rounding.

Background on the Disaster Relief Fund

Roughly half of the supplemental funds appropriated in the wake of the four hurricanes (and other disasters) will be used by DHS in administering relief to stricken communities and victims. These funds are derived from the Disaster Relief Fund (DRF) administered by FEMA. This section provides background information on the DRF and the authority under which its resources are allocated.

P.L. 108-303 appropriated \$2 billion to the disaster relief fund (DRF) administered by the Department of Homeland Security (DHS). DHS uses DRF funds to provide assistance to individuals, families, state and local governments, and certain nonprofit organizations, as authorized by the Stafford Act.⁴ Stafford Act aid is available after the President issues a declaration that federal assistance is needed to supplement the resources of states and localities that are overwhelmed by particularly significant catastrophes.⁵ Federal assistance supported by DRF money is used by states, localities, and certain non-profit organizations to provide mass care, restore damaged or destroyed facilities, clear debris, and aid individuals and families with uninsured needs, among other activities. In calendar year 2003, President Bush issued 56 major disaster declarations; thus far in calendar year 2004, 61 such declarations have been issued.⁶

Five types of declarations may be issued by the President or the Secretary of DHS, summarized as follows:⁷

- **Major disaster.** The President issues a major disaster declaration after receiving a request from the governor of the affected state.⁸ A declaration authorizes DHS to administer various federal disaster assistance programs for victims of declared disasters. Each major disaster declaration specifies the type of incident covered, the time period covered, the types of disaster assistance available, the counties affected by the declaration, and the Federal Coordinating Officer.

⁴ The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq.

⁵ For more information on the Stafford Act and the DRF, see CRS Report RL32242, *Emergency Management Funding for the Department of Homeland Security: Information and Issues for FY2004*, by Keith Bea, Shawn Reese, Wayne Morrissey, Frank Gottron, and C. Stephen Redhead.

⁶ For a list of major disaster declarations, see U.S. Federal Emergency Management Agency, "Federally Declared Disasters by Calendar Year," at [<http://www.fema.gov/library/drcys.shtml>], visited Sept. 16, 2004.

⁷ Summaries adapted from testimony by FEMA in U.S. Congress, Committee on Appropriations, Subcommittee on VA, HUD, and Independent Agencies, *Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations for 2001*, hearing, 106th Cong., 2nd sess., Feb. 29, 2000 (Washington: GPO, 2000), p. 702.

⁸ For criteria considered in the declaration of a major disaster, see 44 CFR 206.48.

- **Emergency.** The declaration process for emergencies is similar to that used for major disasters; the President may, however, issue an emergency declaration without a gubernatorial request if primary responsibility rests with the federal government.⁹ Under an emergency declaration, the federal government funds and undertakes emergency response activities, debris removal, and individual assistance and housing programs. DRF expenditures for an emergency are limited to \$5 million per declaration unless the President determines that there is a continuing need; Congress must be notified if the \$5 million ceiling is breached.
- **Fire suppression.** The Secretary of DHS is authorized to provide fire suppression assistance to supplement the resources of communities when fires threaten such destruction as would warrant a major disaster declaration.
- **Defense emergency.** Upon request from the governor of an affected state, the President may authorize the Department of Defense (DoD) to carry out emergency work for a period not to exceed 10 days. DoD emergency work is limited to work essential for the preservation of life and property.
- **Pre-declaration activities.** When a situation threatens human health and safety, and a disaster is imminent but not yet declared, the Secretary of DHS may place agency employees on alert. DHS monitors the status of the situation, communicates with state emergency officials on potential assistance requirements, and deploys teams and resources to maximize the speed and effectiveness of the anticipated federal response and, when necessary, performs preparedness and preliminary damage assessment activities.

The Homeland Security Act of 2002 (P.L. 107-296) transferred the authorities and functions previously carried out by the Federal Emergency Management Agency (FEMA) to DHS and charged the Secretary of Homeland Security with responsibility for administering these activities. The Emergency Preparedness and Response Directorate (EPR) of DHS, which includes FEMA, has primary responsibility for allocating funds from the DRF for activities authorized by the Stafford Act.

⁹ “The President may exercise any authority vested in him ... of this title with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected state, if practicable. The President’s determination may be made without regard to subsection (a) of this section.” 42 U.S.C. 5191(b).

Table 2 of this report lists appropriations made to the DRF since 1974. Prior to FY1989, supplemental appropriations made to the DRF were approved infrequently and generally exceeded the amount originally appropriated in each fiscal year by roughly \$100 to \$200 million.¹⁰ By comparison, since FY1989, appropriations have exceeded \$1 billion in each fiscal year and supplemental appropriations have been approved in all but FY1991 and FY2000.

The last two columns of **Table 2** show that a similar growth pattern has developed for outlays from the DRF. Prior to FY1989, outlays from the DRF averaged \$568 million, and on only two occasions (Hurricane Frederic in FY1978 and the eruption of Mt. St. Helens in FY1980) exceeded \$1 billion. Since 1989, however, average annual outlays have exceeded \$2 billion, due to significant hurricanes (Hugo in FY1989, Andrew in FY1992, Floyd in FY1999), earthquakes (Loma Prieta in FY1990, Northridge in FY1994), floods (Midwest floods of 1993, Red River floods of 1995), the terrorist attacks of September 11, 2001, and the sequence of four hurricanes in the summer of 2004.

¹⁰ An exception occurred in FY1980 after the eruption of Mt. St. Helens.

Table 2. Disaster Relief Fund, FY1974-FY2005
(millions of dollars, 2002 constant dollars)

FY	Appropriations (available funds)						
	AReq.	Orig.	Supp.	Total appropriations		Outlays	
				Nominal	Constant	Nominal	Constant
74	100	200	233	433	1,412	250	816
75	100	150	50	200	591	206	609
76	187	187	0	187	517	362	999
77	100	100	200	300	770	294	754
78	150	115	300	415	997	461	1,108
79	200	200	194	394	876	277	616
80	194	194	870	1,064	2,175	574	1,173
81	375	358	0	358	668	401	746
82	400	302	0	302	526	115	201
83	325	130	0	130	217	202	337
84	0	0	0	0	0	243	391
85	100	100	0	100	156	192	299
86	194	100	250	350	533	335	511
87	100	120	^B 0	120	178	219	325
88	125	120	0	^C 120	173	187	269
89	200	100	^D 1,108	1,208	1,674	140	194
90	270	98	^E 1,150	1,248	1,668	1,333	1,781
91	270	0	0	0	0	552	711
92	^F 184	185	4,136	^G 4,321	5,429	902	1,134
93	292	292	2,000	^H 2,292	2,816	2,276	2,796
94	^I 1,154	226	^J 4,709	4,935	5,935	3,743	4,502
95	320	320	^K 3,275	3,595	4,235	2,116	2,492
96	320	222	^K 3,275	^K 3,497	4,042	2,233	2,581
97	320	^L 1,320	^L 3,300	4,620	5,248	2,551	2,898
98	^M 2,708	320	^N 1,600	1,920	2,155	1,998	2,242
99	^O 2,566	^P 1,214	^Q 1,130	2,344	2,597	3,746	4,149
00	2,780	^R 2,780	0	2,780	3,019	2,628	2,853
01	2,909	300	^{S,T}	^T 5,890	6,249	3,217	3,413
02	^U 1,369	664	^V 7,008	^V 12,160	12,677	3,947	4,114
03	1,843	800	^W 1,426	^W 2,199	2,255	8,541	8,761
04	1,956	1,800	^X 2,275	^X 2,042	^Y 2,068	^Y 3,044	^Y 3,082
05	2,151	2,042	^X 8,500	10,542	^Z 10,542	^Y 3,363	^Y 3,363
Total	24,240	16,360	48,988	72,099	84,455	50,648	60,224

Sources: U.S. President annual budget documents; appropriations legislation; U.S. Federal Emergency Management Agency budget justifications. Constant dollar amounts based on CRS calculations based on GDP (chained) price index in: U.S. President (Bush), *Historical Tables, Budget of the United States Government, Fiscal Year 2005* (Washington, 2004), pp. 184-185.

^A Data in the request column generally represent the first budget request submitted by the Administration each year and do not include amended or supplemental requests. Note, however, additional detail in this column.

^B In February 1987, a total of \$57.5 million was rescinded and transferred from the DRF to the Emergency Food and Shelter Program account (P.L. 100-6). That amount was returned to the fund the same year in supplemental appropriations legislation enacted in July 1987 (P.L. 100-71).

^C P.L. 100-202, the Continuing Appropriations Act for FY1988, appropriated \$120 million for disaster relief. According to FEMA, the original appropriation for that fiscal year was \$125 million, but \$5 million was transferred to the Department of Labor for “low income agriculture workers.”

^D Supplemental funds were included in P.L. 101-100, continuing appropriations legislation enacted after Hurricane Hugo struck in September 1989. According to FEMA, this amount was “referred to as a supplemental but was an increase in the original appropriation during a continuing resolution.”

^E P.L. 101-130, enacted after the Loma Prieta earthquake, appropriated \$1.1 billion in supplemental funding for FY1990. In addition, \$50 million was appropriated in P.L. 101-302, dire emergency supplemental appropriations legislation. Table 2 does not reflect a \$2.5 million transfer from the President’s unanticipated needs fund.

^F FY1992 request does not include the budget amendment of \$90 million submitted by the Administration.

^G Appropriations for FY1992 included a \$943 million dire emergency supplemental in P.L. 102-229, enacted in the fall of 1991 after Hurricane Bob; \$300 million after the Los Angeles riots and flooding in Chicago (spring of 1992) in P.L. 102-302; and \$2.893 billion in P.L. 102-368 after Hurricanes Andrew and Iniki, Typhoon Omar, and other disasters.

^H Total for FY1993 includes the \$2 billion supplemental approved after the Midwest floods of 1993 (P.L. 103-75).

^I The original FY1994 budget request was \$292 million. On July 29, 1993, a supplemental request of \$862 million was sent by President Clinton to Congress.

^J Supplemental appropriations for FY1994 enacted after the Northridge earthquake struck Los Angeles (P.L. 103-211).

^K Additional supplemental appropriation approved for Northridge earthquake costs (P.L. 104-19) for FY1995, with the same amount (\$3.275 billion) reserved for a contingency fund for FY1996. However, \$1 billion of the contingency fund was rescinded in FY1996 omnibus appropriations, P.L. 104-134. In the same legislation, another \$7 million was also appropriated to other FEMA accounts for costs associated with the bombing of the Alfred P. Murrah federal building in Oklahoma City.

^L The FY1998 budget appendix (p. 1047) noted a transfer of \$104 million from the disaster relief fund in FY1996. In the FY1997 appropriations act (P.L. 104-204), \$1 billion that had been rescinded in FY1996 (P.L. 104-134) was restored, and \$320 million in new funds were appropriated. Supplemental appropriations of \$3.3 billion were approved in P.L. 105-18 after flooding in the Dakotas and Minnesota, and after storms in other states were declared major disasters. The legislation specified, however, that of the total, \$2.3 billion was to be available in FY1998 only when FEMA submitted a cost control report to Congress. This requirement was met, and the funding was made available in FY1998.

^M The FY1998 request consisted of a \$320 million base amount plus \$2.388 billion “to address actual and projected requirements from 1997 and prior year declarations.” (*Budget Appendix FY1998*, p. 1047). Does not include \$50 million requested for the DRF for mitigation activities.

^N Supplemental appropriations legislation (P.L. 105-174) for FY1998 approved for flooding associated with El Niño and other disasters.

^o The FY1999 request consisted of \$307.8 million for the DRF and an additional \$2.258 billion in contingency funding to be available when designated as an emergency requirement under the Balanced Budget Act of 1985, as amended.

^p The FY1999 omnibus appropriations act (P.L. 105-277, 112 Stat. 2681-579) included \$906 million for costs associated with Hurricane Georges, flooding associated with El Niño, and other disasters.

^q Emergency supplemental appropriations for FY1999 (P.L. 106-31) included \$900 million for tornado damages as well as \$230 million for unmet needs, subject to allocation directions in the conference report (H.Rept. 106-143).

^r FY2000 appropriations act (P.L. 106-74, 113 Stat. 1085) included disaster relief funding as follows: \$300 million in regular appropriations and \$2.480 billion designated as emergency spending for costs associated with Hurricane Floyd and other disasters. In addition, the Consolidated Appropriations Act (P.L. 106-113) authorized the Director of FEMA to use up to \$215 million in disaster relief funds appropriated in P.L. 106-74 for the purchase of residences flooded by Hurricane Floyd, under specified conditions.

^s Supplemental appropriations legislation (P.L. 106-246) authorized that \$77 million from the DRF to be used for buyout and relocation assistance for victims of Hurricane Floyd. The act also appropriated \$500 million in a separate account for claim compensation and administrative costs associated with the Cerro Grande fire that destroyed much of Los Alamos, New Mexico.

^t P.L. 107-38 appropriated \$40 billion in response to the terrorist attacks of September 11, 2001. Pursuant to the statute, these funds for FY2001 were allocated by the Office of Management Budget from the Emergency Response Fund (ERF). Of the total appropriated in P.L. 107-38 after the September 11 attacks, \$4.4 billion were allocated for FY2001 through P.L. 107-117 (115 Stat. 2338). The total available for obligation for FY2001 (\$5.9 billion) taken from FEMA *Justification of Estimates, FY2003*, p. DR-2.

^u Request for FY2002 did not include funding for the Disaster Relief Contingency Fund.

^v Congress appropriated a total of \$7.008 billion for FY2002 in P.L. 107-117 and 107-206 to meet additional needs associated with the terrorist attacks. Total funds available (\$12.16 billion) include a transfer from the Transportation Security Administration, \$1 billion released from the Emergency Contingency Fund, and other sources. See Department of Homeland Security, Emergency Preparedness and Response Directorate, *Justification of Estimates, FY2004*, p. DR-2.

^w Includes \$442 million in P.L. 108-69 and \$938 million in P.L. 108-83 to meet needs associated with tornadoes, winter storms, the recovery of wreckage of the Space Shuttle *Columbia* and other disasters. Also, funds appropriated in these measures and in the FY2004 appropriations act for DHS (P.L. 108-90) have been used for costs associated with Hurricane Isabel. Total of \$2.199 billion available taken from: Department of Homeland Security, Emergency Preparedness and Response Directorate, *Justification of Estimates, FY2005*, p. FEMA-18.

^x P.L. 108-106 which primarily addressed reconstruction costs in Iraq and Afghanistan also contained an appropriation of \$500 million for needs arising from disasters in the fall of 2003, including Hurricane Isabel and the California fires. Section 4002 of the act designates the funds an emergency requirement pursuant to the budget resolution adopted by Congress (H.Con.Res. 95), but the Consolidated Appropriations Act for FY2004 (Sec. 102(a), Division H, P.L. 108-199) rescinded \$225 million of the \$500 million appropriated in P.L. 108-106. Total of \$2.043 billion taken from: Department of Homeland Security, Emergency Preparedness and Response Directorate, *Justification of Estimates, FY2005*, p. FEMA-18. P.L. 108-303, enacted after Hurricanes Charley and Frances struck Florida, appropriated \$2 billion to the DRF and gave discretion to DHS to transfer \$300 million to the Small Business Administration for disaster loans. P.L. 108-324, Division B of the Military Construction Appropriations Act for FY2005, appropriated an additional \$6.5 billion to the DRF.

^y Outlay data and constant dollar calculations based on estimates.

^z Funds presented in current dollars.

Issues of Debate

Members of Congress rarely engage in controversy or debate on federal disaster assistance funding measures. Many constituents, Members of Congress, and analysts generally agree that the federal government has an important role in the immediate response to significant catastrophes, as well as in long-term recovery efforts. Some debate may occur, however, on the types of activities to be funded through this request, the addition of provisions in supplemental appropriations legislation for activities not always seen to be emergency needs, and activities funded through supplemental appropriations, among other issues. The remainder of this report contains information on some of the issues raised in the debate over the FY2004 and FY2005 disaster assistance supplemental requests considered and acted upon by Congress.

Unanticipated Events and Apportionment of Spending. One issue concerns the anticipation of catastrophes, notably hurricanes, and the rate at which funds are depleted from the DRF. Hurricanes Charley and Frances struck during the congressional recess. By mid-August the DRF, which is used for all disaster and emergency declarations issued by the President, contained insufficient funds to meet even the immediate response needs.¹¹ Accordingly, the schedule DHS had established for obligating funds, pursuant to statutory apportionment requirements, had to be revised.¹² In a letter to the chairman of the House Appropriations Committee, an OMB official reported that in light of the immediate needs, “it will be necessary to obligate funds at a rate that will exhaust amounts currently appropriated to fund immediate disaster response efforts involving the safety of human life and the protection of property.”¹³ Expediting the obligation rate, OMB noted, required expeditious passage of supplemental appropriations “[b]ecause of the unanticipated magnitude of the destruction caused and anticipated to be caused by this season’s hurricanes.”

The notification OMB gave to Congress on September 3 makes reference to an exception to the statutory apportionment requirements.¹⁴ In essence, DHS cannot obligate funds from the DRF in excess of the amount appropriated and must obligate

¹¹ Telephone conversation between the author and congressional staff, September 7, 2004.

¹² “An appropriation for an indefinite period and authority to make obligations by contract before appropriations shall be apportioned to achieve the most effective and economical use.” 31 U.S.C. 1512.

¹³ Letter from Joshua B. Bolten, Director, Office of Management and Budget, to the President, September 6, 2004.

¹⁴ “Except as provided ..., an official may make, and the head of an executive agency may request, an apportionment under section 1512 of this title that would indicate a necessity for a deficiency or supplemental appropriation only when the official or agency head decides that the action is required because of ... (B) an emergency involving the safety of human life, the protection of property, or the immediate welfare of individuals when an appropriation that would allow the United States Government to pay, or contribute to, amounts required to be paid to individuals in specific amounts fixed by law or under formulas prescribed by law, is insufficient.” 31 U.S.C. 1515(b)(1).

funds from the DRF effectively and economically. DHS (and other departments and agencies) may, however, expedite the rate of obligation for reasons specified in the statute. Due to the immediate needs that resulted from the two hurricanes, OMB contended that the exception was appropriately invoked. As noted in the OMB notice, this change in the obligation rate (apportionment) necessitated supplemental appropriations to provide funds for the response to the hurricanes and other disasters.

While Congress theoretically could have refused to appropriate the requested supplemental funds, it is not unreasonable to have expected positive action. Some may argue, however, that congressional power over the purse is compromised by having DHS and OMB decide that supplemental appropriations are necessary. That decision arguably rests with Congress.

While the situation that led to enactment of P.L. 108-303 was resolved expeditiously, one may conceive that future catastrophic disasters (including terrorist attacks more devastating than those of September 11, 2001) could occur in the future while Congress is in recess, or in adjournment. The revision of the apportionment rate from the DRF, and the resulting press to enact supplemental appropriations, might be alleviated in the future if Congress were to address the issue. Options for congressional action include:

- Congress could extend to the Secretary of DHS the authority currently held by the Secretary of Defense (and the Secretary of Transportation for the Coast Guard) to obligate funds from the DRF on a deficiency basis under specified circumstances.¹⁵ As the Coast Guard has been transferred from the Department of Transportation to DHS, it may be argued that the Secretary of DHS has this authority when the Coast Guard operates as a service to the Navy.
- In light of advances made in hurricane prediction and projections of storm intensity, it may be argued that hurricanes may be foreseen and anticipated, at least to a degree adequate enough for Congress to consider supplemental appropriations in late spring or early summer of each year, prior to the August district work period.¹⁶
- Congress could appropriate reserve funds that would be released to DRF for obligation if specified conditions exist. For example, over \$2 billion appropriated for the DRF in FY1998 was only made available “until the Director of the Federal Emergency Management

¹⁵ “No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment, except in the Department of Defense and in the Department of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies, which, however, shall not exceed the necessities of the current year.” 41 U.S.C. 11.

¹⁶ Perhaps the most prominent forecasting models used by a team of researchers at Colorado State University, headed by Dr. William Gray. See [<http://hurricane.atmos.colostate.edu/forecasts/>], visited Sept. 9, 2004.

Agency submits to the Congress a legislative proposal to control disaster relief expenditures including the elimination of funding for certain revenue producing facilities.”¹⁷

Agricultural Disaster Assistance¹⁸

Background. The late summer 2004 hurricanes damaged or destroyed significant portions of Florida’s agricultural production, particularly citrus trees, vegetables, and nursery products. Various other parts of the nation also have suffered farm production losses over the past year caused by prolonged drought, floods, freezes, and other weather-related disasters. Generally, farm production losses are not eligible for FEMA assistance, but instead are covered under an assortment of ongoing programs administered by the U.S. Department of Agriculture (USDA). These include disaster loans, the federal crop insurance program, and the noninsured crop disaster assistance program.¹⁹

When major disasters affect widespread portions of the nation, Congress traditionally has supplemented these ongoing USDA programs with emergency crop loss payments, livestock feed assistance and other ad-hoc programs. Between fiscal years 1988 and 2003, Congress approved nearly \$17 billion in emergency crop loss payments, and approximately \$2.6 billion in livestock and other emergency farm disaster assistance.²⁰

To assist farmers with more recent production losses, congressional and administrative action has taken place on two fronts: (1) USDA announced a new Florida Hurricane Disaster Assistance Program, which is expected to make an estimated \$500 million in direct disaster payments to Florida citrus, vegetable, and nursery growers; and (2) Congress approved a \$3.5 billion supplemental appropriation for agriculture disaster assistance in the FY2005 military construction appropriation act (P.L. 108-324, H.R. 4837). It includes \$658.5 million for damages caused by hurricanes and other storms in 2004 and an estimated \$2.9 billion in general crop and livestock disaster assistance for eligible producers nationwide. The \$2.9 billion was offset by a comparable reduction in funding for a mandatory agriculture conservation program in future years.

USDA’s Florida Hurricane Disaster Assistance Program. The Administration has begun implementing a new agricultural disaster payment program designed to assist any Florida county that was declared a disaster area as a result of either Hurricane Charley, Frances, or Jeanne. The new Florida Hurricane

¹⁷ P.L. 105-18, 111 Stat. 200.

¹⁸ This section prepared by Ralph Chite, Resources, Science, and Industry Division, CRS.

¹⁹ For more information on these and other USDA assistance programs, see CRS Report RS21212, *Agricultural Disaster Assistance*, by Ralph Chite.

²⁰ For more details on this spending, see CRS Report RL31095, *Emergency Funding for Agriculture: A Brief History of Supplemental Appropriations*, by Ralph Chite.

Disaster Assistance Program did not require a new appropriation.²¹ Instead, the program uses existing USDA Section 32²² funds (estimated by USDA at more than \$500 million) to provide direct disaster payments to producers of citrus, vegetables and nursery crops based on estimated losses. Sign-up began October 5 for citrus assistance and October 20 for vegetable and nursery crops. Recipients are subject to an \$80,000 payment limit, and must have adjusted gross income under \$2.5 million (which is waived if more than 75% of income is derived from farming or forestry).

General Crop and Livestock Disaster Assistance. Of the estimated \$3.5 billion in agricultural disaster assistance provided in the FY2005 military construction appropriations act (P.L. 108-324), approximately \$2.9 billion is for additional crop disaster payments, livestock feed assistance, and tree replanting assistance. Much of this disaster assistance is expected to benefit regions that have experienced multiple years of drought, and other areas that were affected by a late summer frost and other disasters.

Fiscal conservatives had insisted that the cost of any agricultural assistance for disasters other than the 2004 hurricanes be offset with reductions in other USDA programs. Supporters of farm and conservation programs were opposed to reducing spending for any farm bill programs to pay for disaster assistance, and contended that all natural disasters should be treated equally. Congress did adopt a \$2.9 billion reduction in spending authority for the Conservation Security Program, a mandatory USDA program authorized by the 2002 farm bill (P.L. 107-171). However, the offset will not take effect until FY2008, after lawmakers write a new farm bill. Within a couple of days after final congressional action on P.L. 108-324, the Senate adopted a resolution (S.Res. 465) instructing conferees on the FY2005 agriculture appropriations bill (H.R. 4766) to restore any cuts to the CSP. Conference on this measure is pending.

P.L. 108-324 uses USDA's Commodity Credit Corporation (CCC) to fully fund payment formulas for three disaster programs — crop loss assistance, livestock assistance, and tree assistance. The Congressional Budget Office (CBO) estimates the cost of these three programs at \$2.35 billion for crop losses, \$475 million for livestock assistance, and \$35 million for tree replantings. If these estimates fall short of program needs, CCC funds are available for any shortfall.

Crop loss payments are to be implemented in the same fashion as the 2000 crop disaster program. A crop producer would be eligible for assistance if crop losses due to any natural disaster were in excess of 35% in either 2003, 2004, or 2005. (A producer must choose one of the three years. The only eligible 2005 crop losses are those caused by a 2004 hurricane or tropical storm.) For losses in excess of the 35%

²¹ For more information on this program, see [http://disaster.fsa.usda.gov/fl_hurricane.htm], visited Oct. 22, 2004.

²² "Section 32" is a permanent appropriation that since 1935 has earmarked the equivalent of 30% of annual customs receipts to support the farm sector through a variety of activities. Perhaps the best-known use of Section 32 funds is USDA's direct purchases of meats, poultry, fruits, vegetables, and fish, which are diverted mainly to school lunch and other domestic food programs.

threshold, an eligible producer can receive a payment of up to 65% of the relevant price for the commodity. Payments will be made to all eligible producers regardless of whether a farmer was in a declared disaster area. Recipients are subject to an \$80,000 per person payment limit. Total payments received under this act combined with crop insurance payments and the sale of the harvested crop cannot exceed 95% of what the value of the crop would have been in the absence of the losses. The applicant's adjusted gross income must be under \$2.5 million, but the limitation is waived if more than 75% of income is derived from farming. Any Florida producer that receives a payment under USDA's Florida Hurricane Disaster Assistance Program (see above) is ineligible for a crop loss payment provided by P.L. 108-324. The act also sets aside \$50 million for Virginia and \$3 million for North Carolina for 2003 crop year losses, and allows only these states to receive crop loss payments for two of the eligible years.

Also included in the total is necessary funding for a Livestock Assistance Program (LAP), which would provide direct payments to eligible livestock producers who suffered grazing losses due to a natural disaster. The bill requires the program to be modeled after the LAP implemented in 2000. Under this proposed program, a livestock producer would be eligible for LAP benefits when a natural disaster caused the producer in an approved county to suffer a 40% or greater loss of grazing for three or more consecutive months during either 2003 or 2004. The livestock producer would be eligible for payments for either year, but not both.

Finally, necessary funds are provided to fully fund the Tree Assistance Program (TAP), which was authorized by the 2002 farm bill (P.L. 107-171) but did not receive any regular appropriations for FY2004. TAP provides financial assistance to orchard growers to help them replant eligible trees, bushes, and vines that are damaged or destroyed by a natural disaster. A grower who lost more than 15% of eligible trees to a natural disaster can be reimbursed for 75% of the cost of replanting eligible losses that occurred between December 1, 2003, and December 31, 2004. Payments are limited to 500 acres and no more than \$75,000 per person. The act provides an additional \$15 million to eligible forest land owners who suffered tree losses during the same period.

Additional Hurricane Loss Assistance. An additional \$658.5 million in agricultural assistance was made available in P.L. 108-324 for regions that were severely affected by the series of 2004 hurricanes and tropical storms. Included in this amount is \$250 million to repair waterways and watersheds; \$150 million for debris clean-up and repairs on farms through the Emergency Conservation Program; \$90 million for additional funding for the Florida Hurricane Disaster Assistance Program for citrus, vegetable, and nursery crop losses; \$68 million for rural infrastructure and \$18 million for rural housing loans and grants; \$40 million for sugarcane payments; \$10 million for dairy production losses; \$10 million for cottonseed producers and first handlers; \$10 million for private forest landowners; \$8.5 million for pecan producers; and \$4 million for additional Farm Service Agency administrative expenses associated with the hurricane assistance.

Conclusion

Hurricanes Charley, Frances, Ivan, and Jeanne, the continuing drought, and other catastrophes serve as reminders that natural disasters, not just terrorist attacks, devastate communities and have short-term (if not long-term) adverse economic impacts. These hurricanes continue a decades-long trend that has required billions of dollars in federal expenditures. The immediate shortfall in the DRF in early September 2004 was resolved with the passage of H.R. 5005, P.L. 108-303. With three other supplemental requests the Administration indicated to Congress that the needs of stricken communities and victims required more aid. During the debate on the supplemental request Members of Congress have considered issues such as the funding of disasters and the American Red Cross.

Although farm disaster assistance has been enacted to cover farm production losses in virtually every crop year between 1988 and 2004, some policymakers are concerned that the continued availability of ad-hoc disaster payments might discourage producers from purchasing a crop insurance policy. Several billion dollars in additional premium subsidy were pumped into the federal crop insurance program beginning in 2000, to enhance farmer participation and preclude the need for ad-hoc disaster assistance. Participation in the crop insurance program has increased significantly since 2000. However, when widespread disasters strike, the political pressure continues to further compensate farmers for disaster losses.