



WILDFIRE DISASTER FUNDING ACT

July 9, 2014

This Bill Would Break the Budget Control Act's Discretionary-Spending Cap:

In a May 8, 2014 [letter to Sen. Ron Wyden \(D., Ore.\)](#), CBO says the Wildfire Disaster Funding Acts—which have been introduced in both chambers with identical text—“would not authorize additional funding for wildfire suppression activities or appropriate funds for those purposes” and “that enacting either bill, *by itself*, would have no effect on the federal budget. [emphasis added]” However, CBO also says that because enactment of Wildfire Disaster Funding Act “could lead to increases in the caps on discretionary funding, those bills could lead to changes in the timing or amounts of funds provided in subsequent appropriation bills” and that this additional spending “would be reflected in CBO’s cost estimates for that subsequent legislation.”

Because the Wildfire Disaster Funding Acts are budget-process bills—that is, they effectively create a new exception from the caps on discretionary spending—the bills themselves do not increase federal spending. **But they do create new authority to increase federal spending.** All Congress would need to do is pass an appropriations bill that made use of this authority, and it would increase discretionary spending above the level permitted by the Budget Control Act (BCA). The discretionary cap for fiscal year 2015 is \$1.014 trillion. CBO concludes:

- that if this legislation took effect before enactment of fiscal year 2015 appropriations, the cap would rise by \$420 million and could be as high as, but could not exceed, \$2.689 billion; and
- that though the bill calls for any increase in the cap to be offset by a decrease the next year, it also finds “upward adjustments in the discretionary caps for wildfire suppression would probably exceed reductions in the caps for disaster relief relative to current law,” because the bill changes the way the cap itself is calculated. So the bill would, in fact, increase total spending.

The same logic applies to legislation that would increase the discretionary caps. Technically, CBO would not score an impact from changes to the caps, because the caps alone do not provide spending authority. But no one would argue that increasing the caps would have *no* impact on spending—because CBO *does* score appropriations bills, and those bills can provide spending authority up to the amount of the caps. Otherwise, there is an across-the-board cut in spending under the Budget Control Act’s sequester mechanism. And for legislation amending the caps, CBO has provided estimates of how it would affect discretionary spending.¹

¹ For examples of how the Congressional Budget Office (CBO) scores and estimates the impact of discretionary caps, see CBO’s estimates on the Budget Control Act

(<http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/123xx/doc12357/budgetcontrolactaug1.pdf>), which established the discretionary caps and the sequester, and the Bipartisan Budget Act

(<http://www.cbo.gov/sites/default/files/cbofiles/attachments/Bipartisan%20Budget%20Act%20of%202013.pdf>), which increased those caps and offset the higher discretionary spending with mandatory spending savings.

Wildfires Are Already Eligible for Disaster-Relief Funding:

Under current law, wildfires are already treated like all other “major disasters.” If the President declares a wildfire a “major disaster” under the Stafford Act—and fires are explicitly listed as an authorized use in [section 102\(2\)](#)—wildfire relief is eligible for funding provided under the existing disaster cap adjustment in the Budget Control Act. (See section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act as amended by the Budget Control Act referring to section 102(2) of the Stafford Act, linked above, [here](#)). These bills try to treat fires differently from all other disasters by allowing them to access funding outside the discretionary caps—whether or not the President has declared a major disaster. And seven wildfires were designated major disasters in 2012 and 2013 alone:

[California Rim Fire \(DR-4158\)](#)

Incident period: August 17, 2013 to October 24, 2013

Major Disaster declared on December 13, 2013 (FEMA DRF Funding \$74.5M)

[Karuk Tribe Wildfire \(DR-4142\)](#)

Incident period: July 29, 2013 to August 1, 2013

Major Disaster declared on August 29, 2013 (FEMA DRF Funding \$717K)

[Colorado Black Forest Wildfire \(DR-4134\)](#)

Incident period: June 11, 2013 to June 21, 2013

Major Disaster declared on July 26, 2013 (FEMA DRF Funding \$8.85M)

[Colorado Royal Gorge Wildfire \(DR-4133\)](#)

Incident period: June 11, 2013 to June 16, 2013

Major Disaster declared on July 26, 2013 (FEMA DRF Funding \$235K)

[Oklahoma Freedom and Noble Wildfires \(DR-4078\)](#)

Incident period: August 3, 2012 to August 14, 2012

Major Disaster declared on August 22, 2012 (FEMA DRF Funding \$9.6M)

[Colorado High Park and Waldo Canyon Wildfires \(DR-4067\)](#)

Incident period: June 9, 2012 to July 12, 2012

Major Disaster declared on June 28, 2012 (FEMA DRF Funding \$7.3M)

[Montana Wildfires \(DR-4074\)](#)

Incident period: June 25, 2012 to July 10, 2012

Major Disaster declared on August 2, 2012 (FEMA DRF Funding \$2.35M)

Fully Funding FLAME Accounts Would Protect Routine Forest Management:

When excessive wildfire-suppression costs require borrowing from other forest-management funds, there often are disruptions in the forest management necessary to prevent and reduce the severity of future fires. Wildfire-suppression activities are a priority, so they should be funded within the discretionary caps. Congress has had the ability to designate wildfire funding as an “emergency,” but in the past Congress has funded wildfire needs within budgeted funds without relying on cap adjustments or emergency designations.

The Federal Land Assistance, Management, and Enhancement (FLAME) Act of 2009 explicitly tried to solve this problem. The act established FLAME Wildfire Suppression Reserve Accounts for the Forest Service and the

Interior Department, which were to be funded from annual appropriations with balances building in good years so that there were extra funds available to deal with bad fire seasons.

The FLAME funds are a reserve that becomes available if the relevant cabinet secretary declares that (1) an individual wildfire covers at least 300 acres (less than 2 percent of fires do) or threatens lives, property, or resources, or (2) cumulative wildfire-suppression and emergency-response costs will exceed, within 30 days, available appropriations for wildfire suppression and emergency responses.

Access to these reserve accounts allows for the continuance of routine wildfire suppression and protection efforts. The fiscal year 2010 Interior Appropriations Act provided an initial amount of \$474 million for the two FLAME funds. Unfortunately, since then, the FLAME accounts have been underfunded. In fact, the 2011 Interior Appropriations Act rescinded \$200 million from the funds and the 2012, 2013, and 2014 appropriations have further scaled back funding for these reserve accounts.

The Congressional Research Service concluded that in the first two years, when the reserve funds were fully funded, “both the FS and DOI report that they had enough suppression funding.” But since then, “there were supplemental funding requests for wildfire suppression, which again stemmed from a series of fire transfers. Some are concerned that FLAME is not being implemented as intended.”

The Bipartisan Budget Act increased discretionary caps for FY 2014 and 2015 by \$63 billion, with half of that funding going to domestic funding. Wildfire funding is a priority, so instead of breaking the BCA’s caps—and therefore its commitment to deficit reduction—Congress should fully fund wildfire-suppression activities within the BCA caps and use the FLAME funds, as intended, to eliminate the need for disruptive transfers when catastrophic fires occur. Budgeting is about priorities, and Congress should give wildfire suppression the precedence it deserves.