



**Legislative Bulletin.....June 1, 2012**

**H.R. 5325 — FY 2013 Energy and Water Appropriations Act**

**BY THE NUMBERS:**

*In Millions of Dollars*

	<b>FY12</b>	<b>FY13 Request</b>	<b>FY13 Committee</b>	<b>Cmte v. Request</b>	<b>Cmte v. FY12</b>
<b>Appropriations</b>	32,010	33,062	32,098	-964	88
<i>Emergency Approps</i>	<i>1,724</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>-1,724</i>
Total	33,734	33,062	32,098	-964	-1,636

**Excluding Emergency Appropriations, the Committee Bill is:**

- **\$964 million or 2.9% less than the request**
- **\$88 million or 0.2% more than last year**

**Spending Discussion:** The bill provides a spending level of \$32.1 billion, \$88 million (0.2%) more than last year. The House Appropriations Committee approved the 302(b) allocations for the twelve appropriations bills that totals \$1.028 trillion—consistent with the 302(a) allocation provided under the FY 2013 House-passed budget resolution. This allocation is a \$19 billion cut compared to the cap under the Budget Control Act, and a \$15 billion cut compared to last year. The RSC budget’s 302(a) allocation would have been \$931 billion (\$97 billion lower).

**Order of Business:** H.R. 5325 is scheduled to be considered under an open rule (H.Res. 667) that provides for one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The bill will be considered for amendment under the five-minute rule. The rule also waives Clause 2 of Rule 21, which prevents appropriations bills from containing unauthorized appropriations or legislative provisions.

## Funding Summaries:

*In Thousands*

	<b>FY 12 Enacted</b>	<b>FY 13 Request</b>	<b>H.R. 5325</b>	<b>H. R. 5325 v. FY 12</b>	<b>H.R. 5325 v. Request</b>	<b>% v. FY 12</b>	<b>% v. Request</b>
<b>Corps of Engineers</b>							
General Investigations.....	125,000	102,000	102,000	-23,000	----	-18.4%	----
Construction.....	1,694,000	1,471,000	1,477,284	-216,716	6,284	-12.8%	0.4%
Flood Control - MS River & Tributaries.	252,000	234,000	224,000	-28,000	-10,000	-11.1%	-4.3%
Operations & Maintenance.....	2,412,000	2,398,000	2,507,409	95,409	109,409	4.0%	4.6%
Regulatory Programs.....	193,000	205,000	190,000	-3,000	-15,000	-1.6%	-7.3%
FUSRAP.....	109,000	104,000	104,000	-5,000	----	-4.6%	----
General Expenses.....	185,000	182,000	177,500	-7,500	-4,500	-4.1%	-2.5%
Office of the Assistant Secretary of the Army.....	5,000	5,000	5,000	----	----	----	----
<b>Dept of Interior</b>							
Central Utah Project.....	28,704	----	21,000	-7,704	21,000	-26.8%	NA
Water and Related Resources.....	895,000	818,635	833,635	-61,365	15,000	-6.9%	1.8%
Central Valley Project.....	53,068	39,883	39,883	-13,185	----	-24.8%	----
California Bay-Delta Restoration.....	39,651	36,000	36,000	-3,651	----	-9.2%	----
Policy & Administration.....	60,000	60,000	57,000	-3,000	-3,000	-5.0%	-5.0%
<b>Dept of Energy</b>							
Fossil Energy Research.....	346,703	420,575	554,000	207,297	133,425	59.7%	31.7%
Energy Efficiency and Renewable.....	1,809,638	2,267,333	1,381,293	-428,345	-886,040	-23.7%	-39.1%
Electricity Delivery and Energy Reliability.....	139,103	143,015	123,000	-16,103	-20,015	-11.6%	-14.0%
Nuclear Energy.....	765,391	770,445	765,391	----	-5,054	----	-0.7%
Naval Petroleum and Oil Shale Reserves.	14,909	14,909	14,909	----	----	----	----
Elk Hills School Lands Fund.....	----	15,580	15,580	15,580	----	NA	----
Strategic Petroleum Reserve.....	192,704	195,609	195,609	2,905	----	1.5%	----
Northeast Home Heating Oil Reserve.....	-89,881	4,119	4,119	94,000	----	NA	----
Energy Information Administration.....	105,000	116,365	100,000	-5,000	-16,365	-4.8%	-14.1%
Uranium Enrichment Decontam .....	472,180	442,493	425,493	-46,687	-17,000	-9.8%	-3.8%
Science.....	4,873,634	4,992,052	4,801,431	-72,203	-190,621	-1.5%	-3.8%
Nuclear Waste Disposal.....	----	----	25,000	25,000	25,000	NA	NA
Advanced Technology Vehicles Loans...	6,000	9,000	6,000	----	-3,000	----	-50.0%
Advanced Research Projects Agency.....	275,000	350,000	200,000	-75,000	-150,000	-27.2%	-42.9%
Departmental Administration.....	42,000	43,468	43,468	1,468	----	3.5%	----
Weapons Activities.....	7,214,120	7,577,341	7,512,341	298,221	-65,000	4.1%	-0.9%
Naval Reactors.....	1,080,000	1,088,635	1,086,635	6,635	-2,000	0.6%	-0.2%
Office of the Administrator.....	410,000	411,279	400,000	-10,000	-11,279	-2.4%	-2.7%
Defense Environmental Cleanup.....	5,002,950	5,009,001	4,920,078	-82,872	-88,923	-1.7%	-1.8%
Defense Nuclear Nonproliferation.....	2,295,880	2,458,631	2,276,024	-19,856	-182,607	-0.9%	-7.4%
Other Defense Activities.....	823,364	735,702	813,364	-10,000	77,662	-1.2%	10.6%
Power Marketing Administrations.....	108,080	108,242	108,242	162	----	0.1%	----
<b>Independent Agencies</b>							
Appalachian Regional Commission.....	68,263	64,850	75,317	7,054	10,467	10.3%	16.1%

Def Nuclear Facilities Safety Board.....	29,130	29,415	29,415	285	----	1.0%	----
Nuclear Regulatory Commission.....	128,600	128,470	128,130	-470	-340	-0.4%	-0.2%
Nuclear Waste Technical Review Board..	3,400	3,400	3,400	----	----	----	----
Federal Coordinator AK Natural Gas.....	1,000	3,084	1,000	----	-2,084	----	-67.6%
Delta Regional Authority.....	11,677	11,315	11,677	----	362	----	3.2%
Denali Commission.....	10,679	10,165	10,679	----	514	----	5.1%
Northern Border Regional Commission...	1,497	1,425	1,425	-72	----	-4.8%	----
Southeast Crescent Regional Commission.....	250	----	250	----	250	----	NA

### **Items of Note:**

**Army Corps of Engineers:** \$4.8 billion—\$187.8 million or 3.8% below last year, and \$83.2 million or 1.8% below the request.

**National Nuclear Security Administration:** \$11.3 billion—\$275.0 million or 2.8% more than last year, and \$260.0 million or 2.5% below the request.

**Advanced Technology Vehicles Manufacturing Loans:** \$6 million—same as last year, \$3 million below the President’s request.

**Fossil Energy Research:** \$554 million—\$202.3 million or 59.7% above last year, and \$133.4 million or 31.7% above the request.

**Energy Efficiency and Renewable:** \$1.381 billion—\$428.3 million or 23.7% below last year, and \$886.0 million or 39.1% below the request.

**Department of Energy, Office of Science:** \$4.8 billion—\$72.2 million or 1.5% below last year, and \$190.6 million or 3.8% less than the request.

**Power Marketing Administration:** \$108.2 million—\$162,000 or 0.1% above last year, and the same as the President’s request.

**Appalachian Regional Commission:** \$75.3 million—\$7 million (or 10.3%) above last year, and \$10.5 million (or 16.1%) above the President’s request. The President’s budget proposed to slightly decrease funding for this program. This bill increases it. Many conservatives have expressed concerns that the program is unnecessary and duplicative and have sought to defund this program. Dozens of other federal, state, and local programs exist to encourage development and provide funding for local highway and infrastructure projects.

**Denali Commission:** \$10.7 million—the same as last year, and \$515,000 above the President’s request. The President’s budget proposed to slightly decrease funding for this program. This bill keeps it at last year’s level. Created by Congress in 1998, the program is intended to provide job training and other economic development assistance to distressed rural areas in Alaska. Some conservatives have expressed concern this

commission is unnecessary and duplicative. Dozens of other federal, state, and local programs exist to provide job training and economic development advice and assistance.

**Prohibition of Funds on Influencing Congressional Action:** The legislation prohibits funds from being used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

**Prohibition of Funds on Convicted Corporations:** None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to any corporation that was convicted (or had an officer or agent of such corporation acting on behalf of the corporation convicted) of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation, or such officer or agent, and made a determination that this further action is not necessary to protect the interests of the Government.

**Prohibition of Funds on Corporations with Unpaid Taxes:** None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination

**E-Verify:** The legislation prohibits any funds made available from being expended for any new hire by any federal agency (funded by the bill) that is not verified through the E-Verify Program as described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

**“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations:”** The legislation prohibits funds made available by the bill from being used in contravention of Executive Order No. 12898 of February 11, 1994: “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.”

**Yucca Mountain:** The legislation prohibits funds made available by the bill from being used to conduct closure of adjudicatory functions, technical review, or support activities associated with the Yucca Mountain geologic repository license application, or for actions that irrevocably remove the possibility that Yucca Mountain may be a repository option in the future.

**Earmarks:** According to the Committee Report, “Neither the bill nor the report contains any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.”

**Committee Action:** H.R. 5325 was reported out of the House Appropriations Committee as an original measure on May 2, 2012.

**Cost to Taxpayers:** The bill appropriates a total of \$32.098 billion in FY 2013, which (looking at the non-emergency spending) is \$88 million more than last year.

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes. The bill increases non-emergency spending by \$88 million compared to last year.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No CBO score is available listing any possible mandates.

**Constitutional Authority:** The [Committee Report](#) states:

“Congress has the power to enact this legislation pursuant to the following: The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: ‘No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . .’ In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: ‘The Congress shall have the Power . . . to pay the Debts and provide for the common Defence and general Welfare of the United States . . .’ Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use.”

The committee did not cite constitutional authority for the various spending items themselves. Clearly the congressional power to spend money does not imply a power to spend money on anything.

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