



Congressional Primer on Major Disasters and Emergencies

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Summary

The principles of disaster management assume a leadership role by the local and state governments with the federal government providing coordinated supplemental resources and assistance. A declaration of a major disaster or emergency must, in almost all cases, be requested by the governor, who at that point has declared that the situation is beyond the capacity of the state to respond. The governor also determines which parts of the state they will request assistance for and suggests the types of assistance programs that may be needed. The President considers the governor's request, in consultation with officials of the Federal Emergency Management Agency (FEMA), within the Department of Homeland Security (DHS), and makes the initial decisions on the areas to be included as well as the programs that are implemented. The immediate response to a disaster is guided by the National Response Framework (NRF), which details roles and responsibilities at various levels of government, along with cooperation from the private and non-profit sectors, for differing incidents and support functions.

The majority of federal aid is made available from FEMA under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288. In addition to that assistance, other disaster aid is made available through programs of the Small Business Administration (which provides disaster loans to both businesses and homeowners), the U.S. Department of Agriculture (USDA), the Federal Highway Administration (FHWA) within the Department of Transportation (DOT) and the Department of Housing and Urban Development (HUD) (in the form of Community Development Block Grant funds being made available for unmet disaster needs).

While the disaster response and recovery process is fundamentally a relationship between the federal government and the requesting state government, there are roles for congressional offices to play in providing information to the federal/state response and recovery teams in their respective states and districts. Congressional offices also serve as a valuable source of accurate and timely information to their constituents.

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Overview

Before and after a disaster strikes, it may be helpful to understand the broad outlines of the national emergency management structure and where authority rests at various stages of the process. This report provides information that can aid policymakers as they navigate through the many levels of responsibility, and numerous policy pressure points, by having an understanding of the laws and administrative policies governing the disaster response and recovery process. The report also reviews the legislative framework that exists for providing federal assistance, as well as the implementing policies the executive branch employs to provide supplemental help to state and local governments during time of disasters.

See the “Where to Obtain Further Information” section of this report for online resources with information on the response to current disasters, on the disaster management process and federal disaster assistance programs, and on the current scientific predictions for various natural hazards.

Background on Disaster Response

Disaster and Emergency Declarations

Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended, hereinafter “the Stafford Act”) there are two principal forms of presidential action to authorize federal supplemental assistance.¹ Emergency declarations are made to protect property and public health and safety and to lessen or avert the threat of a major disaster or catastrophe. Emergency declarations are often made when a threat is recognized (such as emergency declarations for hurricanes which may be made prior to landfall) and are intended to supplement and coordinate local and state efforts prior to the event. This aids activities such as evacuations and the protection of public assets. In contrast, a major disaster declaration is made as a result of the disaster or catastrophic event and constitutes a broader authority that helps states and local communities, as well as families and individuals, recover from the damage caused by the event.

In considering declarations it may be helpful to appreciate the discretionary roles of the governor and the President. The declaration process contains many factors for consideration and, for all but the most catastrophic events, the process moves at a deliberate speed accumulating information from several sources. While the process is informed by that information and its relationship to potential assistance programs, the information that is gathered at the state and local level does not preclude the exercise of judgment by the governor or the President.²

The Stafford Act stipulates several procedural actions a governor must take prior to requesting federal disaster assistance (including the execution within the state of the state emergency plan and an agreement to accept cost-share provisions and related information-sharing). Still, the process leaves broad discretion with the governor if he or she determines that a situation is

¹ P.L. 93-288, 42 U.S.C. 5121-5208.

² For further analysis on emergency and major disaster declarations, see CRS Report RL34146, *FEMA's Disaster Declaration Process: A Primer*, by Francis X. McCarthy.

“beyond the capabilities of the state.”³ The concession that a state can no longer respond on its own is difficult to quantify. It is the governor who makes that assessment, based on his or her knowledge of state resources and capabilities.

The Process for a Declaration

Following a significant event, the first need is for accurate information. The governor’s first decision is whether the incident is severe enough to warrant the assembling of a traditional Preliminary Damage Assessment (PDA) team to survey the damaged area. The traditional PDA team includes a state official, representatives from the appropriate FEMA regional office, a local official familiar with the area, and, in some instances, representatives from the American Red Cross and/or the Small Business Administration.

The FEMA representatives have the responsibility of briefing the team on the factors to be considered, the information that will be helpful in the assessment and how the information should be reported. One significant improvement in this process is that the regulations now require that the participants reconcile any differences in their findings so that all parties involved are working from the same sets of information. In the case of some large disaster events, an initial declaration may be made to accelerate emergency assistance. Follow-up assessments may then be made to determine the extent of damage and the federal programs needed to address the situation.

The Types of Declarations and Designations

While the assistance under an emergency declaration may be proscribed by actions taken by the state prior to the event, the forms of assistance contained in a major disaster declarations are broader and may generally consist of the three types of assistance.⁴

The type of assistance made available varies from one disaster to another and among eligible applicants within a state, commensurate with decisions by FEMA officials on the extent of damage and the eligibility of applicants.⁵ For instance, under a major disaster declaration, local jurisdictions with large numbers of damaged or destroyed residences might be eligible for assistance under the Individual Assistance (IA) program, whereas those with severely damaged infrastructure but relatively few damaged homes might be eligible only for assistance under the Public Assistance (PA) program. Similarly, if a local government had extensive debris in public rights-of-way due to a disaster, but very little damage to public facilities, a determination might be made to provide assistance only for debris removal activities under the PA program. On the other hand, areas severely devastated by a catastrophe are often eligible for both IA and PA. In most instances, disaster declarations now include Hazard Mitigation Assistance (HMA) which is provided to reduce the threat of future disaster damage.⁶

³ 42 U.S.C. 5170.

⁴ For a listing of assistance under each type of declaration see CRS Report R41101, *FEMA Disaster Cost-Shares: Evolution and Analysis*, by Francis X. McCarthy.

⁵ For a brief review of disaster assistance programs see CRS Report RL31734, *Federal Disaster Recovery Programs: Brief Summaries*, by Carolyn V. Torsell.

⁶ For further information see CRS Report R41101, *FEMA Disaster Cost-Shares: Evolution and Analysis*, by Francis X. McCarthy. There are additional CRS products that provide detail on Stafford Act programs and other federal disaster programs on the CRS website.

The President's declaration announcement will stipulate those counties included in the declaration and for which forms of assistance.⁷ The declaration may comport with the governor's request. However, there are instances where the initial declaration may not include all requested counties and types of assistance. Often times, additional assessments may be needed to reach a decision on the specific areas and types of assistance to be provided. Additional counties and assistance can be added on following the declaration. Hazard Mitigation Assistance is generally included on a state-wide basis to give the states flexibility on prioritizing projects within the state that may reduce future disaster damage.

The declaration announcement will also note the federal and state cost-shares for disaster assistance programs. Programs with a cost-share, such as infrastructure repair, are generally done on a 75% federal, 25% state and local basis. These may be adjusted based on several considerations, including the scope of the damage within a state.⁸

National Response Framework

The National Response Framework (NRF) guides the nation's response to a major disaster, regardless of cause or size.⁹ The NRF also establishes 15 different Emergency Support Functions (ESFs) to organize response capabilities. ESFs group federal agencies with pertinent authorities, resources, and expertise to accomplish a set of capabilities needed in disaster response, regardless of disaster type. For instance, ESF #9 is "Search and Rescue," which unifies federal agencies with the appropriate resources and authorities to conduct search and rescue operations following a hurricane, earthquake, or other major disaster.¹⁰ The NRF also contains additional guidance describing how the NRF will be used in response to certain disaster scenarios. The Mass Evacuation Annex, for example, describes how the federal government will help coordinate its support for mass evacuations with state and local governments.¹¹

Although the NRF is often closely linked with the Stafford Act, the NRF is always in effect and does not require a formal Stafford Act declaration to be used. Any disaster requiring federal coordination, including those declared under other federal authorities, arguably would be managed through the NRF.¹² As a result of the NRF, the federal, tribal, state, and local government agencies, and even most non-government organizations will arguably operate in

⁷ These announcements are publicly available in the *Federal Register*.

⁸ For a full discussion of cost-shares under Stafford Act declarations see CRS Report R41101, *FEMA Disaster Cost-Shares: Evolution and Analysis*, by Francis X. McCarthy.

⁹ U.S. Department of Homeland Security, Federal Emergency Management Agency, *National Response Framework* (Washington: January 2008), <http://www.fema.gov/pdf/emergency/nrf/nrf-core.pdf>. For extensive support documents and presentations on the NRF, see the NRF Resource Center at <http://www.fema.gov/nrf/>. For more on Congressional interest in the NRF, see CRS Report RL34758, *The National Response Framework: Overview and Possible Issues for Congress*, by Bruce R. Lindsay.

¹⁰ Each ESF has a coordinating agency, typically several different primary agencies, and a larger number of support agencies. For more description on the purpose and composition of ESFs, see <http://www.fema.gov/pdf/emergency/nrf/nrf-esf-intro.pdf>.

¹¹ See the annex at http://www.fema.gov/pdf/emergency/nrf/nrf_massevacuationincidentannex.pdf.

¹² U.S. Department of Homeland Security, Federal Emergency Management Agency, *National Response Framework* (Washington: January 2008), <http://www.fema.gov/pdf/emergency/nrf/nrf-core.pdf>, p.26. Examples include public health emergencies declared under Section 319 of the Public Health Services Act (42 U.S.C. §247), or spills of national significance under the Oil Pollution Act (P.L. 101-380).

similar ways during response, with commonly understood terminology and management structures.

Who Is In Charge?

The Principle of Federalism in Emergency Management

Through the NRF, the U.S. takes a “bottom up” approach to both managing and providing assistance during a disaster. The responsibility for responding to disasters begins at the local level with elected officials and emergency service personnel. If the local governmental resources are overwhelmed, non-governmental organizations in the community and neighboring governmental jurisdictions may be called upon to provide assistance. If those become exhausted, the state and tribal governments may supplement the local government’s resources, and the governor may make a state disaster declaration. Only after both local and state/tribal government resources have been overwhelmed, and the governor of the state has requested assistance, does the federal government begin to “... supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering...”¹³ The details of this supplemental partnership are stipulated in the Federal-State Agreement which is signed by the representatives of the governor and of FEMA and states the “conditions for assistance” and how it will be provided.¹⁴

Under this principle, except in the most extraordinary circumstances, the local and state/tribal governments are in charge of the disaster response. FEMA, or any other federal agency, is there to aid the disaster response process through the NRF and programs it administers, and to coordinate federal resources in response to state requests—not to be in the lead or take command.¹⁵

Key Emergency Management Officials

Following the federalism principle, the local elected official, such as a mayor or their appointed representative, leads the disaster response for their community. The governor is the lead for the state response, and the President is lead for the federal response.¹⁶ If state resources are being used to supplement the local response, they are typically coordinated through a State Coordinating Officer (SCO) and the state’s emergency management or homeland security agency. In the event of a Stafford Act emergency or disaster declaration, the President will request that each governor appoint a SCO if they have not done so already.¹⁷ Likewise, the President, FEMA Administrator, or Regional Administrator will appoint a Federal Coordinating Officer (FCO) to coordinate all federal resources per state.¹⁸ The FCO is located at the Joint Field Office (JFO)

¹³ 42 U.S.C. 5122, §102(2) of the Stafford Act,

¹⁴ 44 CFR 206.44.

¹⁵ There are circumstances when the federal government is the lead for a disaster, such as when the area affected is federal property (in national waters, parks, or military installations, etc.), or when the disaster is caused by a terrorist act and the Federal Bureau of Investigation becomes the lead law enforcement agency.

¹⁶ At the federal level, the President has delegated leadership responsibilities to the Secretary of Homeland Security and the Administrator of FEMA.

¹⁷ 42 U.S.C. 5143(c).

¹⁸ The role of the coordinating officers is described in statute at 42 U.S.C. 5143, in regulations at 44 C.F.R. §206.42, and at length in Chapter III of the NRF.

where federal agencies and departments coordinate their activities. Often times, state disaster officials will co-locate at the JFO to facilitate coordination of efforts.

Forms of Disaster Assistance

Mutual Aid and Assistance Agreements

Many local governments have pre-negotiated agreements with neighboring jurisdictions to share resources ranging from emergency service equipment (ambulances, fire trucks, etc.) to technical experts (bridge inspectors, contract managers, etc.). At the state level, the Emergency Management Assistance Compact (EMAC) is a congressionally ratified compact that provides a legal structure by which states affected by a disaster may request emergency assistance and aid from other states.¹⁹ Mutual aid agreements are an increasingly common and important source of assistance during major disasters. Congressional offices may wish to become familiar with the types of agreements in place for disaster assistance in their appropriate state and Congressional district.

Non-Governmental Organization (NGO) Assistance

Though not required, NGOs wishing to provide disaster assistance and relief are encouraged by statute and regulation to coordinate their assistance through the structure of the NRF.²⁰ Two national NGOs, the National Voluntary Organizations Active in Disaster (National VOAD) and the American Red Cross, have specific responsibilities under the NRF.²¹ Because each disaster has a unique set of NGOs involved in response and relief, state or local government officials may generally be the best source of information on their activities during the disaster.

National Guard

Governors routinely use their state National Guard forces to assist with disaster response and recovery. Although National Guard personnel can be called into federal service under certain circumstances, they normally operate under the control of state and territorial governors. As part of a state-level response to a disaster, governors have the authority to order state National Guard personnel to perform full-time duty under state law. This is commonly referred to as “state active duty.” In this capacity, National Guard personnel operate under the control of their governor, are paid according to state law, can assist civil authorities in a wide variety of tasks, and are not subject to the restrictions of the Posse Comitatus Act (that is, they can perform law enforcement functions). In response to a hurricane, National Guard personnel might perform tasks such as conducting search and rescue, transporting and distributing supplies, setting up emergency shelters, clearing road debris, and providing emergency medical care.

¹⁹ For more on EMAC, see <http://www.emacweb.org/index.cfm>.

²⁰ For example, see 42 U.S.C. 5152 and 44 C.F.R. §206.12.

²¹ See p. 20 of the NRF. National VOAD is a coalition of many NGO organizations, and is a valuable resource in understanding the types of assistance available through NGOs. See <http://www.nvoad.org/>. The American Red Cross is actually a federally chartered instrumentality of the U.S. government. To see the Congressional Charter, go to <http://www.redcross.org/www-files/Documents/Governance/charter.pdf>.

Main Forms of Stafford Act Assistance

The three principal forms of federal assistance under the Stafford Act are

- *Public Assistance (PA)*, which is generally the repairs to public infrastructure. This can include debris removal, repairs to public buildings, state and local roads, water control facilities, public or non-profit utilities, and recreational facilities. Although certain non-profit organizations may be eligible, private businesses are not.
- *Individual Assistance (IA)*, which generally involves temporary housing which can take the form of rental assistance, repairs to make a home habitable, direct assistance when rental units are not available (this is usually in the form of mobile homes or trailers) or contributions toward the replacement of a home. Total assistance under this program is capped at about \$30,000. Other aid to individuals may be provided through Crisis Counseling for disaster victims²² and Disaster Unemployment Assistance (DUA) if there are significant numbers of workers unemployed due to the disaster who do not qualify for the regular state unemployment program.²³
- *Hazard Mitigation Assistance (HMA)*, which is the form of aid that provides additional funding to states to accomplish projects that can reduce future disaster damage. This form of assistance is also cost-shared. Mitigation projects can include the construction of safe rooms, buy-outs of frequently flooded properties, and retro-fitting of facilities.²⁴

Other Federal Assistance

Under a Stafford Act declaration, the President, the FEMA Administrator, and the FEMA Regional Administrator may

direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance response and recovery efforts, including precautionary evacuations.²⁵

If another federal agency is called upon to assist during a disaster using this authority, typically they do receive reimbursement through a “Mission Assignment.”²⁶ In addition, there are a number of pre-existing disaster assistance programs not administered by DHS or FEMA that can be involved in any given disaster.²⁷ Four significant programs are

²² 42 U.S.C. 5177.

²³ For additional information on this program, see CRS Report RS22022, *Disaster Unemployment Assistance (DUA)*, by Julie M. Whittaker.

²⁴ For a full description of the Hazard Mitigation program see CRS Report R40471, *FEMA’s Hazard Mitigation Grant Program: Overview and Issues*, by Natalie Keegan.

²⁵ 42 U.S.C. 5170a, §402(1) of the Stafford Act.

²⁶ For regulations on this issue, see 44 C.F.R. §206.5-8.

²⁷ For a more comprehensive list of programs, see CRS Report RL31734, *Federal Disaster Recovery Programs: Brief Summaries*, by Carolyn V. Torsell.

- Small Business Administration (SBA) Disaster Loans: SBA provides federally subsidized loans to repair or replace homes, personal property, or businesses that sustained damages not covered by insurance following a disaster. SBA loans are a key source of assistance for the private sector and individual homeowners.²⁸
- Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program: These funds can be used to meet a wide range of disaster needs, but the program typically requires a supplemental appropriation to accommodate the high cost of disaster relief.²⁹
- U.S. Department of Transportation Federal-Aid Highway Emergency Relief (ER) Program: The ER program is the major source of grant funds for the repair and reconstruction of roads on the federal-aid highway system³⁰ that have suffered serious damage as a result of either (1) a natural disaster over a wide area, such as a flood, hurricane, tidal wave, earthquake, tornado, severe storm, or landslide; or (2) a catastrophic failure from any external cause.³¹
- U.S. Department of Agriculture (USDA) Agriculture and Rural Assistance: There are multiple programs provided by USDA that provide food, housing, and financial assistance, primarily to agricultural and rural communities.³²

Congressional Activity in the Process

As mentioned previously, the Stafford Act, and overall federal disaster assistance, is fundamentally a relationship between the federal and state governments. However, there are steps along the way in which congressional input and distribution of information can assist the process toward recovery. As a disaster situation unfolds, congressional offices may wish to take the following steps during the pre-declaration period:

- Establish a working relationship with the state emergency management office to understand the most valuable contributions that an office can make.
- Encourage family and household planning through web sites such as <http://www.ready.gov>, which provides pre-disaster planning advice.

²⁸ For more on the current programs offered by SBA to assist after disasters, see CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress*, by Bruce R. Lindsay.

²⁹ For more on how CDBG can be used during disaster relief, see CRS Report RL33330, *Community Development Block Grant Funds in Disaster Relief and Recovery*, by Eugene Boyd. The program website is available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/drsi.

³⁰ According to U.S. DOT, the definition of Federal-aid highways includes roads “ranging from high service level arterials to lower service local streets...” and “... about one-quarter of the overall public road mileage has been designated as Federal-aid highways.” For a full definition, see <http://www.fhwa.dot.gov/specialfunding/er/guide.cfm>.

³¹ For more on the ER program, see CRS Report RS22268, *Repairing and Reconstructing Disaster-Damaged Roads and Bridges: The Role of Federal-Aid Highway Assistance*, by Robert S. Kirk.

³² For more, see USDA’s fact sheet on their programs at <http://www.usda.gov/documents/usda-disaster-assistance-fact-sheet-july.docx>. Also review CRS Report RS22301, *Rural Housing: USDA Disaster Relief Provisions*, by Bruce E. Foote; CRS Report RS21212, *Agricultural Disaster Assistance*, by Dennis A. Shields and Ralph M. Chite, and CRS Report RL33816, *Broadband Loan and Grant Programs in the USDA’s Rural Utilities Service*, by Lennard G. Kruger, among others.

- Consider a letter of support for the governor's request for a declaration by framing the problems confronted by the state and local governments and the importance of specific federal, supplemental assistance.
- Provide input to the PDA teams, through state and local officials, regarding pockets of need or constituents who have noted problem areas that should be reviewed.
- Help to manage expectations of residents by explaining the process and the potential assistance, as well as its limitations.

If a declaration is made by the President, congressional offices can then

- Establish their relationship with FEMA/DHS Congressional liaisons to obtain accurate and timely information both at the headquarters level and in the field at the Joint Field Office (JFO) level.
- Consider publicizing the 1-800 number and the online process for applying for Individual Assistance programs as described at <http://www.fema.gov>.
- If needed, provide suggestions to FEMA/DHS on likely locations for fixed Disaster Recovery Centers (DRCs) and for possible sites for Mobile Disaster Recovery Centers to visit. These DRCs are typically staffed by FEMA and other federal agencies as well as non-governmental organizations and provide citizens with the opportunity for face-to-face sessions with recovery staff.
- Work with FEMA/DHS to get an accurate listing of counties that are participating in the National Flood Insurance Program and those that are either sanctioned, or have chosen not to participate.³³
- Consider publicizing the "Applicants Briefing" to local governments and non-governmental organizations that sustained damage from the event. This briefing is the session in which FEMA staff explain the PA program (repairs to infrastructure) regulations and policies to local officials and potential applicants.
- Engage the State Hazard Mitigation Officer to understand the state's plan for mitigation, the priorities it has established, and the timeline of its implementation.
- Be cognizant of the status of the Disaster Relief Fund (DRF) that funds the Stafford Act programs as well as other missions assigned to other departments and agencies to carry out response and recovery missions. The DRF has frequently been funded through supplemental legislation to maintain a balance that can meet current obligations and projected needs.³⁴

³³ For detailed information on this program see CRS Report R40650, *National Flood Insurance Program: Background, Challenges, and Financial Status*, by Rawle O. King.

³⁴ For a further discussion of disaster spending, see CRS Report R40708, *Disaster Relief Funding and Emergency Supplemental Appropriations*, by Bruce R. Lindsay and Justin Murray.

Where to Obtain Further Information

There are available online sources that provide the most immediate disaster response information.

- Current Stafford Act declarations: <http://www.fema.gov/news/disasters.fema>.
- FEMA news releases: <http://www.fema.gov/news/recentnews.fema>.
- FEMA also maintains a blog and Facebook page with the latest information on disasters, see <http://blog.fema.gov/> and <http://www.facebook.com/FEMA>.

Sources of information on the federal emergency management process and assistance programs.

- The National Response Framework: <http://www.fema.gov/nrf/>.
- The National Incident Management System: <http://www.fema.gov/nims/>.
- How citizens can receive individual disaster assistance: <http://www.disasterassistance.gov/>.
- How citizens can prepare for disasters: <http://www.ready.gov/>.
- Background on all federal assistance programs: <https://www.cfda.gov/>.

Sources of scientific information on the magnitude and location of natural disasters.

- Hurricanes: <http://www.nhc.noaa.gov/>.
- Earthquakes: <http://earthquake.usgs.gov/earthquakes/>.
- Current flood and drought maps: <http://waterwatch.usgs.gov/new/>.
- Current severe weather warnings, including tornados, thunderstorms, and flooding: <http://www.spc.noaa.gov/products/wwa/>.
- Active fire maps: <http://activefiremaps.fs.fed.us/#>.

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