

Major Disaster Declarations for Snow Assistance and Severe Winter Storms: An Overview

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Summary

The Federal Emergency Management Agency (FEMA) provides two types of assistance for winter incidents: (1) snow assistance, and (2) assistance for severe winter storms. The assistance is triggered by a presidential disaster declaration. The criteria used by FEMA to determine whether to recommend a declaration depend on the type of winter incident. Snow assistance is based on record, or near record snowfall according to official government reports on snow accumulations. Acceptable government reports are snowfall amounts measured and published by the National Oceanic and Atmospheric Administration's National Climatic Data Center, or measurements made by observers from the National Weather Service. Determinations for severe winter storms are based on the severity and magnitude of the event and the capabilities of the state and affected local governments to respond to the incident. Both requests for snow assistance and assistance for severe winter storms must also include the estimated cost of federal and nonfederal public assistance associated with the incident. FEMA divides the estimated cost of federal and nonfederal public assistance by the statewide population to give some measure of the per capita impact the incident has had on the state.

Snow assistance is available for all eligible costs incurred over a continuous 48-hour period. State and tribal governments may select a 48-hour period during which the highest eligible costs have been incurred. The 48-hour period selected cannot be changed after it has been submitted. As with most major disaster declarations, the types of assistance for severe winter storms vary according to the nature and severity of the incident. Generally, only a limited amount of snow removal is provided for severe winter storms. This is done to perform otherwise eligible emergency work (for example, to repair utility lines).

This report describes snow assistance and assistance for severe winter storms, the declaration process, the criteria used to make eligibility determinations, and the types of assistance that are provided after the President has issued a major disaster declaration for the incident. This report also provides some historical data including obligations for the incidents from FEMA's Disaster Relief Fund (DRF). The DRF is the main account used to fund a wide variety of programs, grants, and other forms of emergency and disaster assistance to states, local governments, certain nonprofit entities, and families and individuals affected by disasters.

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Introduction

The Federal Emergency Management Agency (FEMA) provides two types of assistance for winter incidents: (1) “snow assistance,” and (2) assistance for “severe winter storms.” Both types of assistance are triggered by a presidential disaster declaration. The criteria used by FEMA to determine whether to recommend a declaration depend on the type of winter incident. Snow assistance determinations are based on snow accumulations. Determinations for severe winter storms are based on the severity and magnitude of the event and the capabilities of the state and affected local governments to respond to the incident. Requests for snow assistance and assistance for severe winter storms must also include the estimated cost of federal and nonfederal public assistance associated with the incident. FEMA divides the estimated cost of federal and nonfederal public assistance by the statewide population to give some measure of the per capita impact the incident has had on the state.

This report describes snow assistance and assistance for severe winter storms, the declaration process, the criteria used to make eligibility determinations, and the types of assistance that are provided after the President has issued a major disaster declaration for the incident. This report also provides some historical data on winter incidents obligations for the incidents from FEMA’s Disaster Relief Fund (DRF). The DRF is the main account used to fund a wide variety of programs, grants, and other forms of emergency and disaster assistance to states, local governments, certain nonprofit entities, and families and individuals affected by disasters.¹

Background and Historical Data

Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, hereinafter the Stafford Act)² there are two principal forms of presidential action to authorize federal assistance to states and localities through FEMA. 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 the emergency declarations issued for Hurricane Katrina which were made prior to landfall) and are intended to supplement and coordinate local and state efforts prior to the event (such as evacuations and protection of public assets).³ 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.⁴

¹ The DRF is a no-year account—unused funds from the previous fiscal year are carried over to the next fiscal year. For further analysis on the DRF see CRS Report R43537, *FEMA’s Disaster Relief Fund: Overview and Selected Issues*, by Bruce R. Lindsay.

² 42 U.S.C. §5122.

³ For additional information on FEMA’s response to emergencies and major disasters see CRS Report R43560, *Deployable Federal Assets Supporting Domestic Disaster Response Operations: Summary and Considerations for Congress*, coordinated by Jared T. Brown; CRS Report R42845, *Federal Emergency Management: A Brief Introduction*, coordinated by Bruce R. Lindsay; and CRS Report R41981, *Congressional Primer on Responding to Major Disasters and Emergencies*, by Francis X. McCarthy and Jared T. Brown.

⁴ For further analysis on emergency and major disaster declarations, see CRS Report R43784, *FEMA’s Disaster Declaration Process: A Primer*, by Francis X. McCarthy; and CRS Report R42702, *Stafford Act Declarations 1953-2015: Trends, Analyses, and Implications for Congress*, by Bruce R. Lindsay and Francis X. McCarthy.

It could be argued that FEMA policy conceptualizes snowstorms and severe winter storms differently. According to FEMA, a snowstorm is an event in which the state has record or near record snowfall in one or more counties that overwhelms the capability of the affected state and local governments to respond to the event. Severe winter storms, on the other hand, are events that occur during the winter season that include one or more of the following conditions: snow, ice, high winds, blizzard conditions, and other wintry conditions that cause substantial physical damage or property loss.⁵

Prior to 2009, FEMA provided federal assistance for snow removal costs for a stipulated period—usually two or three days. Most of these events were defined as a “snow emergency” because of the relatively limited assistance requested and provided. In November 2009, FEMA published new regulations for snowstorms and severe winter storms. Under the new regulations, snow-related events could be defined as major disasters. As FEMA explained, the intent of the change was to make FEMA’s snow policy conform more closely to the Stafford Act:

FEMA’s 1999 Snow Assistance Policy evaluated requests for snow assistance under both the criteria for an “emergency” declaration under 44 CFR 206.35, as well as a request for a “major disaster” declaration under 44 CFR 206.36. However, the Stafford Act, 42 U.S.C. 5122, and FEMA regulations, 44 CFR 206.2(a)(17), expressly include “snowstorm” in the definition of a “major disaster.” By comparison, FEMA regulations define “emergencies” as those types of events that *do not* qualify under the definition of a major disaster. In this revised policy, snowstorm events will be considered by FEMA for major disaster declarations under 44 CFR 206.36, consistent with the Stafford Act and FEMA regulations. As discussed below, in response to comments received on the July 2008 proposed policy, this final Snow Assistance Policy does not include the limitation proposed in 2008 that FEMA would only make recommendations for major disaster declarations for snow events.⁶

To determine the influence of the new regulations, obligations and declaration data from 2009 through 2014 were analyzed. From January of 2009 through June of 2014, 71 major disaster declarations were issued as part of a winter storm incident.⁷ These declarations led to more than \$2.7 billion in federal obligations from the DRF. **Figure 1** demonstrates both the number of declarations per year and the obligations associated with those incidents. The data suggest that both the number of declarations issued for winter storm incidents and the subsequent funding have increased since the new policy for snowstorms was issued by FEMA in 2009. From 1994, the first year for which there is available data on winter storms, through 2008, the average annual number of major disaster declarations associated with winter storms was 7.5. This number increased to an annual average of 12.4 for the period 2009-2013. Federal obligations also increased between these two periods, from an average of \$274 million per year to an average of \$508 million per year (data not shown).

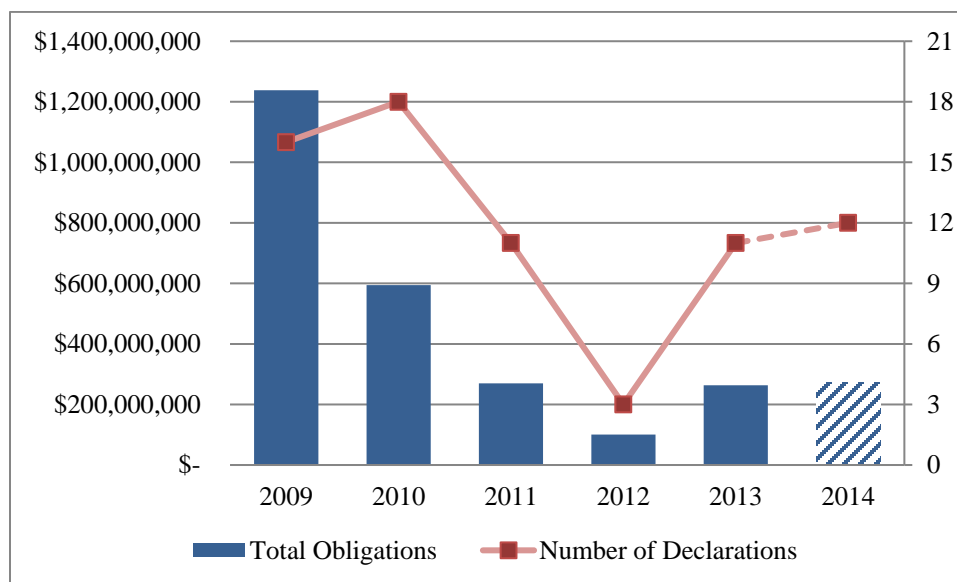
⁵ Federal Emergency Management Agency, FEMA Disaster Assistance Policy, Snow Assistance and Severe Winter Storm Policy, DAP9523.1, November 2, 2009, pp. 2. Available at, <http://www.fema.gov/media-library-data/1388162386239-1304135edc760b20e603e532c4835ad9/9523%201%20Snow%20Assistance%20and%20Severe%20Winter%20Storm%20Policy.pdf>.

⁶ U.S. Department of Homeland Security, Federal Emergency Management Agency, “Snow Assistance and Severe Winter Storm Policy,” 74 Federal Register 57509, November 6, 2009.

⁷ To identify the declarations that were used for this analysis, incidents were considered to be a “winter storm” if the description included any of the following keywords: winter, snow, blizzard, or ice. The descriptions provided by FEMA include all of the factors that contributed to the damage, so it is likely that the obligations include funding for damage that was not caused by snow. For instance, declaration number 1952, which was issued in 2011, was described as, “winter storms, flooding, and debris and mud flows.”

Figure I. Declarations and DRF Obligations for Winter Storm Incidents by Fiscal Year

FY2009-FY2014

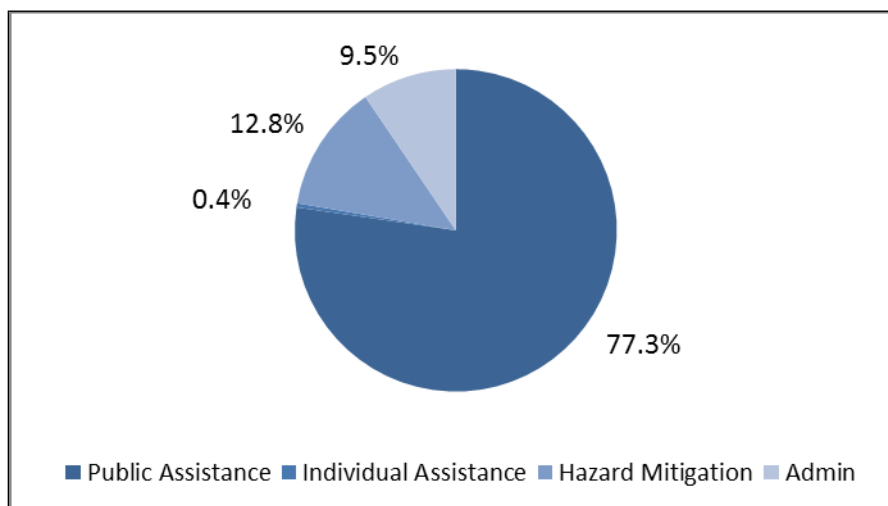


Source: CRS analysis of FEMA obligations data.

Notes: Data for 2014 only include information through June (three quarters of the fiscal year).

Analysis of DRF obligations data also indicated that winter storms involve more obligations from certain FEMA programs than others when compared to the DRF as a whole. **Figure 2** displays the proportion of DRF obligations that were obligated for different programs in response to winter storms. Nearly 80% of DRF obligations for these incidents were for the Public Assistance Program, which assists with debris removal and the repair or replacement of public infrastructure. Public Assistance accounts for only 64% of all DRF obligations for major disasters during the same time period. Conversely, there were almost no funds provided through the Individual Assistance Program, which provides funds to individuals and households when the incident meets certain criteria. For all major disaster declarations between 2009 and 2014, the Individual Assistance Program accounted for 15% of the obligations.

Figure 2. DRF Obligations for Winter Storm Incidents, by Type
2009-2014



Source: CRS analysis of FEMA obligations data.

Notes: Mission Assignments (MA) are included as part of the Public Assistance category. MAs are work orders issued by FEMA Operations to a federal agency directing completion of a specific task, and citing funding, other managerial controls, and guidance. MAs are used by FEMA to task and reimburse other federal entities that provide direct assistance during emergency and major disaster declarations.

Snow Assistance

The Declaration Process for Snow Assistance

The Stafford Act stipulates several procedural actions a governor or tribal leader must take to request federal disaster assistance. The request is vital to the declaration process because the President cannot issue a major disaster declaration without the request. In the case of winter storms, each county included in the request for a declaration must also have a record, or near record, snowfall according to official government snowfall data (see “Official Government Snowfall Data,” below).⁸ In addition, the state or tribal government must also demonstrate that the capabilities of the state or tribal government to effectively respond to the winter storm are, or will be, exceeded.

Requests for snow assistance must be submitted within 30 days following the snowstorm and include an overview of the incident, copies of daily snowfall totals from the National Weather Service (NWS) stations and historical record snowfall data from the National Oceanic and Atmospheric Administration’s (NOAA) National Climatic Data Center (NCDC).

In addition to county snow accumulations, the estimated cost of federal and nonfederal public assistance associated with the incident must also be included in the request.⁹ FEMA divides the

⁸ In some cases, a county that does not receive a record or near record snowfall, but is contiguous to a county that does receive a record or near record snowfall may be designated for snow assistance.

⁹ A complete list of information requirements can be found in the Federal Emergency Management Agency, “FEMA Disaster Assistance Policy: Snow Assistance and Severe Winter Storm Policy,” DAP9523.1, November 2, 2009. Available at <http://www.fema.gov/media-library-data/1388162386239-1304135edc760b20e603e532c4835ad9/9523%201%20Snow%20Assistance%20and%20Severe%20Winter%20Storm%20Policy.pdf>.

estimated cost of federal and nonfederal public assistance by the statewide population to give some measure of the per capita impact the incident has had on the state. The current per capita threshold is \$1.39. In general, FEMA will make a recommendation to issue a major disaster declaration if estimated costs exceed \$1.39 per capita.

FEMA evaluates the above information and criteria to determine if the incident is eligible for a major disaster declaration under the Stafford Act, and then makes declaration recommendations.

Official Government Snowfall Data

State and tribal governments must include official government snowfall data in their request for assistance. FEMA relies on official government data to make declaration recommendations to the President. Snowfall amounts measured and published by NOAA are used to compare the current snowstorm for each county for which snow assistance is requested. The NCDC publishes snowfall data from measurements made by observers from the NWS, airport stations, and the NWS Cooperative Network.¹⁰ NWS spotter resources may also be used as a primary source of snowfall data.¹¹ FEMA will accept snowfall measurements from other sources that have been verified by the NCDC or NWS in cases where Cooperative Network Stations do not exist (or do not issue reports).

Snow Assistance Definitions

FEMA uses the following definitions when considering a state or tribal government request for assistance.¹²

Near Record Snowfall

Near record snowfall approaches, but does not meet, or exceed the historic record snowfall within the county as published by the National Climatic Data Center (NCDC). FEMA generally considers snowfall within 10% of the record amount to be a near record snowfall.

Record Snowfall

A record snowfall meets or exceeds the highest record snowfall within the county over a one-day, two-day, three-day, or longer period of time as published by the NCDC.

Snowstorm

A snowstorm is an event in which the state has record or near record snowfall in one or more counties that overwhelms the capability of the affected state and local governments to respond to the event.

¹⁰ Established October 1, 1890, by the Organic Act (P.L. 51-1266, 26 Stat. 653). The NWS Cooperative Observer Program (COOP) consists of more than 8,700 volunteers who take observations on farms, in urban and suburban areas, in National Parks, on seashores, and on mountaintops.

¹¹ See <https://www.weather.gov/oun/spotter>.

¹² Federal Emergency Management Agency, "FEMA Disaster Assistance Policy: Snow Assistance and Severe Winter Storm Policy," DAP9523.1, November 2, 2009, pp. 2, 5, and 6. Available at <http://www.fema.gov/media-library-data/1388162386239-1304135edc760b20e603e532c4835ad9/9523%201%20Snow%20Assistance%20and%20Severe%20Winter%20Storm%20Policy.pdf>.

Eligible Period and Costs for Snow Assistance

Snow assistance is available for all eligible costs incurred over a continuous 48-hour period. State and tribal governments may select a 48-hour period during which the highest eligible costs have been incurred. The 48-hour period selected cannot be changed after it has been submitted.¹³

FEMA may extend the eligible time period of assistance by 24 hours in counties where snowfall quantities greatly exceed record amounts. To be eligible for a time extension, the snowfall must exceed the historical record snowfall by at least 50%. The time period can be extended 24 hours in each designated county that meets this 50% criterion.

Eligible Assistance

Eligible assistance for snowstorms falls under Category B, emergency protective measures, as outlined in FEMA's Public Assistance Guide.¹⁴ Eligible assistance includes snow removal, snow dumps, deicing, salting, and sanding of roads and other facilities essential to eliminate or lessen immediate threats to life, public health, and safety. Other eligible activities related to the snowstorm include search and rescue, sheltering, and other emergency protective measures.

State and tribal governments are responsible for notifying the FEMA Regional Administrator of any actual or anticipated proceeds from insurance covering snow removal or other snow assistance costs. FEMA will deduct the actual or anticipated amount of snow removal or other snow assistance costs from anticipated insurance proceeds from the policies in force at the time of the snowfall.

Severe Winter Storms

Federal assistance may also be provided for severe winter storms. A severe winter storm is an event that includes one or more of the following: snow, ice, high winds, blizzard conditions, and other wintry conditions that cause substantial physical damage or property loss.

The Declaration Process for Severe Winter Storms

The same procedural actions discussed previously must be taken by a governor or tribal leader when requesting federal disaster assistance for severe winter storms. As with requests for snow assistance, and in fact, a request for any major disaster declaration, the state or tribal government must demonstrate that the capabilities of the state or tribal government to effectively respond to the winter storm are, or will be, exceeded. The estimated cost of federal and nonfederal public assistance associated with the incident must also be included in the request. However, snow accumulations are not used as a criterion to make eligibility determinations and snow removal costs are not used to calculate the per capita impacts of the incident.

Eligible Assistance

The types of eligible assistance for severe winter storms vary according to the nature and severity of the incident. FEMA divides disaster-related work into two broad categories: (1) emergency

¹³ A state agency that provides snow assistance in multiple locations throughout the state (for example, the state's Department of Transportation) is allowed to use different 48-hour periods.

¹⁴ "FEMA Public Assistance Guide," FEMA Publication 322, is available at http://www.fema.gov/media-library-data/20130726-1826-25045-1802/fema_publication_322_public_assistance_guide_6_1_07.pdf.

work, and (2) permanent work. These are further subdivided into seven categories (see **Table 1**). Depending on the nature of the incident, one or more categories of work may be provided for the winter storm. However, it should be noted that a limited level of snow removal is provided for severe winter storms. Generally, snow removal is a precursor to the performance of otherwise eligible emergency work. For example, snow removal may be necessary to access downed power lines or gain access to a damaged building.

Table 1. Categories and Types of Work

Category		Type of Work
Emergency Work:	A	Debris Removal
	B	Emergency Protective Measures
Permanent Work:	C	Roads and Bridges
	D	Water Control Facilities
	E	Buildings and Equipment
	F	Utilities
	G	Parks, Recreational Facilities, and Other Items

Source: Federal Emergency Management Agency, FEMA Public Assistance Guide, Washington, DC, p. 6.

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