

Closing the Incident Period for the Stafford Act Declaration for the COVID-19 Pandemic

February 10, 2023

On February 9, 2023, the Administrator of the Federal Emergency Management Agency (FEMA) [announced](#) that on May 11, 2023, the agency will close the [incident periods](#) for [all emergency and major disasters declared](#) for the COVID-19 pandemic under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act, [P.L. 93-288](#), as amended). Since March 13, 2020, [Stafford Act declarations](#) issued for every state, territory, District of Columbia, and several tribes have authorized FEMA to deliver assistance nationwide. FEMA reports obligating over [\\$100 billion](#) through these declarations, in addition to direct provision of federal personnel, facilities, emergency commodities, and operational support.

What Is the Incident Period?

Stafford Act declarations do not expire, nor do they have set durations established in statute or regulation. Instead, per [federal regulations](#), FEMA determines an “incident period”—the interval during which an incident occurred—for each Stafford Act declaration. Stafford Act response and recovery assistance (such as Individual and Public Assistance) generally only alleviates damages and losses sustained during each declaration’s incident period. For example, FEMA may designate a hurricane’s incident period as the sequence of five days during which winds and flooding caused injuries and damages. FEMA may then provide assistance (often over the course of months or years) to cover the costs of losses, damages, and injuries sustained during those five days.

The 3.5-year incident period for the COVID-19 pandemic is the [longest in FEMA’s history](#); most incident periods cover only days or weeks.

How Does the End of the Incident Period Affect FEMA Assistance?

Statutes, regulations, and program guidance typically limit the duration of specific FEMA assistance programs, which FEMA may and [has extended](#) for the pandemic. Below are summaries of the potential effects for active FEMA assistance programs.

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IN12106

Public Assistance for Governments, Public Entities, and Nonprofits

Through the Public Assistance (PA) program, FEMA provided reimbursement and direct support (e.g., supplies, personnel) to eligible states, local governments, tribes, and territories (SLTTs), as well as nonprofit entities, for eligible [emergency protective measures](#) undertaken in response to the pandemic. According to a [memorandum released February 9, 2023](#), FEMA will generally only provide reimbursement for eligible costs of such measures incurred between January 20, 2020, and May 11, 2023. However, FEMA may [extend the deadline](#) for costs related to demobilization and disposal work related to the pandemic.

[FEMA guidance further explains it will reimburse](#) 100% of the eligible costs of response work performed between January 20, 2022, and July 1, 2022, after which it will cover 90% of eligible costs (see [FEMA policy on additional deadlines](#)). To date, FEMA reports it has obligated approximately [\\$60 billion](#) through PA, and anticipates obligating [\\$80 billion](#) by the end of FY2023.

Funeral Assistance for Individuals

FEMA has reimbursed [eligible applicants](#) for up to \$9,000 in [eligible funeral expenses](#) incurred on or after January 20, 2020, for [deaths attributed to the pandemic](#). FEMA began [accepting applications](#) for the Funeral Assistance program [on April 12, 2021](#), through a dedicated call center, and had not announced a [deadline for applying](#) as of the date of publication. FEMA guidance reports that the end of the incident period will not affect application or eligibility for Funeral Assistance, and that “[FEMA intends](#) to continue providing COVID-19 Funeral Assistance through September 30, 2025, which is the date identified by Congress in the ARPA appropriation.”

As of February 1, 2023, FEMA reported that it has provided more than [\\$2.9 billion](#) for Funeral Assistance.

Hazard Mitigation Assistance

In August 2021, FEMA [announced](#) the availability of \$3.46 billion in Hazard Mitigation Grant Program (HMGP) funding to states, territories, and tribes with major disaster declarations for the COVID-19 pandemic. Because funding is not restricted to pandemic-related mitigation activities, HMGP projects are not immediately affected by the closure of the incident period.

The COVID-19 major disaster declarations also [triggered additional funding](#) for pre-disaster mitigation. The closure of the incident period does not affect the availability of these funds.

When Will Stafford Act Declarations End?

As noted above, Stafford Act declarations do not have pre-set terms, and generally, federal officials do not unilaterally terminate Stafford Act declarations. Instead, FEMA initiates the closeout of an individual declaration only after the closeout of all related individual projects and programs (e.g., Individual Assistance, PA). Closeout, in effect, proceeds from the bottom-up. For this reason, the duration of pandemic-related Stafford Act declarations may vary by jurisdiction.

Statutes, regulations, and program guidance detail the periods afforded to [closeout procedures](#). In June, 2022, FEMA published [closeout deadlines](#) for PA for the pandemic in agency policy.

What Are the Effects of the Incident Period Closure Beyond FEMA?

A number of [statutory authorities](#) and executive actions enacted prior to and during the pandemic are contingent upon an active Stafford Act declaration and/or the duration of the incident period. These

authorities may be affected by the closure of the incident period for the pandemic. For example, Div. B, § 16005 of the CARES Act (P.L. 116-136) authorizes certain Department of Homeland Security health care professionals to practice throughout the United States, regardless of their physical location. This authority is active only for the duration of the incident period for the Stafford Act declarations for the pandemic.

Additionally, May 11, 2023, is the same date that the emergency declarations under Section 319 of the Public Health Service Act (PHSA; P.L. 78-410, as amended; 42 U.S.C. §§201-300mm-61) and the National Emergencies Act (NEA; P.L. 94-412, as amended; 50 U.S.C. §§1601 et seq.) [will end](#), according to [President Joseph R. Biden](#). The [concurrent closure](#) of the Stafford Act incident periods and [the NEA and PHSA declarations](#) are likely to affect additional authorities and assistance established in statute and by executive action.

Resources

CRS CD Memorandum 1329678, *Duration of Statutory Provisions Currently in Effect Pursuant to Public Health Emergency, Stafford Act, and National Emergencies Act Declarations* (available to congressional offices upon request)

CRS Insight IN12088, [Effects of Terminating the Coronavirus Disease 2019 \(COVID-19\) PHE and NEA Declarations](#)

CRS Report R46809, [Federal Emergency and Major Disaster Declarations for the COVID-19 Pandemic](#)

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