

Stafford Act Declarations for Extreme Heat

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The United States has experienced [record-setting high temperatures](#) thus far in 2024, continuing a trend observed in 2023—the hottest year on record, according to the [National Aeronautics and Space Administration](#) and the [National Oceanic and Atmospheric Administration \(NOAA\)](#). U.S. government authorities and [scientific organizations](#) find that average temperatures will likely increase and anticipate extreme heat episodes of greater frequency, duration, and intensity due to climate change, among other factors. Amid these developments, some [Members of Congress](#), [nonfederal governments](#), [labor unions](#), and [nonprofit groups](#) have advocated for extreme heat to qualify for assistance pursuant to a declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, [42 U.S.C. §5121 et seq.](#)), as administered by the Federal Emergency Management Agency (FEMA).

Stafford Act Declarations: Definitions and Assistance

The Stafford Act authorizes the President to provide federal assistance to affected jurisdictions by declaring a specific episode of extreme heat to be an “emergency” or a “major disaster.”

An emergency provides a relatively narrow range of assistance and is broadly [defined as](#)

any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

A major disaster provides a broader range of assistance and is [defined narrowly as](#)

any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance.

Stafford Act Declarations: Procedures to Evaluate Requests

A governor or tribal chief executive must generally request a declaration, which FEMA evaluates. FEMA makes a recommendation to the President, who has the sole authority to issue a declaration.

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Historically, most [Stafford Act declarations](#) provide assistance for sudden-onset hazards that caused structural damage, such as hurricanes. This may be attributable in part to [FEMA regulations](#), which specify that the agency assesses the need for Stafford Act assistance for major disasters based largely on the uninsured disaster-related costs incurred during a specific period of time. (Evaluations of emergency declarations are [more subjective](#).) Extreme heat is [defined differently](#) by different U.S. agencies, and establishing related costs—as well as the specific the duration of an episode—[may challenge](#) FEMA’s procedures. Furthermore, official counts of heat-related deaths are generally [understood to be underestimates](#) due to inconsistency in diagnosis and reporting on death certificates, while estimates using statistical models often come out [months after an incident](#).

These regulations pertain only to FEMA’s recommendation; they do not restrict the President’s authority to issue a Stafford Act declaration.

Historical Requests for Stafford Act Declarations for Extreme Heat

Past Presidents [have denied](#) all requests for Stafford Act declarations for incidents explicitly including extreme heat. In each case, FEMA explained that the “severity and magnitude” of the incident was insufficient to warrant a declaration.

- In 1980, the governor of Missouri requested two major disaster declarations for [extreme heat](#) and drought.
- In 1995, the governor of Illinois requested a major disaster declaration for a [Chicago “heat wave”](#) that is estimated to have directly caused over 700 deaths.
- In 2022, the governor of California [requested a major disaster declaration for a “heat dome” and resulting wildfires](#). The declaration and subsequent appeal were denied. FEMA further reported that the agency does not consider the request to be for extreme heat, as wildfires caused the damage for which the state sought assistance and “FEMA precedent is to evaluate discrete events and impacts, not seasonal or general atmospheric conditions.”

Potential Stafford Act Declarations for Extreme Heat

Despite previous declaration denials for extreme heat, recent FEMA officials [have affirmed](#) that such a declaration is possible under current law. In September 2023, FEMA Administrator Deanne Criswell [testified before Congress](#) that a declaration for extreme heat is possible if warranted:

The Stafford Act does not need to be amended to include extreme heat. We base our decisions on a number of factors, mostly on what—does it exceed the capacity of the state and local jurisdictions. If the response to an extreme heat incident exceeds the capacity of a state and local jurisdiction, they are very open to submit a disaster declaration request. And we will consider that based on whether or not it exceeds their capacity.

Some [Members of Congress](#) have introduced legislation amending the Stafford Act to explicitly include extreme heat in the definition of major disaster.

If a President issued a Stafford Act declaration for an episode of extreme heat, FEMA could potentially provide different forms of assistance, as detailed in CRS Report R46873, *Emergency Response to Extreme Heat: Federal Financial Assistance and Considerations for Congress*.

Policy Considerations

Congress may consider the following issues relevant to potential Stafford Act declarations for extreme heat:

- Stafford Act declarations for extreme heat could further strain FEMA's [already broad](#) response efforts and [staffing shortage](#).
- FEMA's expertise and experience with extreme heat is limited compared to other federal agencies, including [NOAA](#) and the [Centers for Disease Control and Prevention](#). Excepting the COVID-19 pandemic, FEMA has limited experience leading response to incidents that primarily threaten human health.
- A declaration is not the only means through which FEMA can deliver assistance for extreme heat. For example, FEMA is able to provide assistance to communities for [preparedness](#) and [mitigation measures](#) without a declaration.
- Extreme heat may also compound or increase risks of other hazards. For example, some experts have [recently warned](#) that extreme heat episodes [may strain certain power supply systems](#) in the United States, leading to rolling blackouts or power losses that could pose a severe threat to human health. President George W. Bush declared Stafford Act emergencies for several states for power outages in August 2003 following supply strains attributed, in part, to air conditioning use during extreme heat.

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