Congressional Research Service
Informing the legislative debate since 1914

Stafford Act Declarations 1953-2014: Trends, Analyses, and Implications for Congress

Bruce R. Lindsay
Analyst in American National Government

Francis X. McCarthy
Analyst in Emergency Management Policy

July 14, 2015

Congressional Research Service
7-5700
www.crs.gov
R42702

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

The Robert T. Stafford Disaster Relief and Emergency Assistance Act authorizes the President to issue declarations that provide states and localities with a range of federal assistance in response to natural and man-made incidents. Since 1953 the number of declarations issued each year has steadily increased. For example, the average number of major disaster declarations issued from 1960 to 1969 was roughly 19 per year. In contrast, the average number of major disaster declarations issued from 2000 to 2009 was 56 per year. The highest number was declared in 2011, with 99 major disaster declarations.

Declarations are of congressional concern for at least two reasons: (1) congressional oversight of appropriations and the federal budget has led to an awareness of expenditures for disaster assistance, and (2) some are skeptical that declarations are solely made to provide disaster relief. They argue that declarations have become political tools—especially during election years—to gain political favor. Advocates of this position point to incidents which, in their view, could have been handled without federal assistance.

This report describes the declaration process and the types of declarations that can be declared under the Stafford Act: (1) Fire Management Assistance Grants, (2) emergencies, and (3) major disasters.

The discussion is followed by an analysis of each type of declaration that has been issued, and denied from 1953 to 2014. The analysis concludes that

- from 1970 to 2014 the average number of Fire Management Assistance Grants issued was 24 per year. This average grew from 21 per year from 1990-1999 to 55 per year for the period 2000 to 2009;
- emergency declarations have also increased in the past two decades. From 1974 to 2014 there has been an average of 9 emergency declarations issued each year. From 1990 to 1999 there was an average of 6 emergency declarations issued each year, and from 2000 to 2009, there was an average of 15 issued per year;
- most emergency declarations are for hurricanes, followed by snow-related events, droughts, and severe storms;
- from 1953 to 2014 major disaster declarations averaged roughly 35.5 per year. However, the number of declarations being issued each decade has been increasing, particularly in the past two decades. From 1990 to 1999 there was an average of 46 major disasters declared each year, and from 2000 to 2009, there was an average of 56 per year;
- most disaster declarations are for severe storms, flooding, hurricanes, and tornadoes;
- there is a slight increase in the total number of declarations issued in presidential election years from 1974 to 2013, but the number is not significant enough to draw a decisive conclusion regarding their use as a political tool.

The analysis is followed by a discussion concerning the possible causes for the increase in declarations, including federal policy changes, increases in severe weather incidents, population growth, and development.

Some may contend that policies governing declarations should not be changed because they trigger important federal assistance to states and localities. Others may argue that policy mechanisms should be implemented to reduce either the number of declarations being issued each year, or the amount of federal assistance that they provide, or both. These policy mechanisms include

- implementing certain amendments to the Stafford Act;
- changing the per capita threshold formula used to recommend the issuance of a declaration;
- implementing a state capacity indicator to assess whether the state is capable of addressing an incident on its own;
- implementing an expert panel to assess whether an incident warrants a declaration;
- substituting federal loans to states for recovery for grants; and
- adjusting the federal to state cost-share.

The analysis in this report suggests that such changes could reduce federal spending on disaster assistance and shift a portion of the funding back to the states. On the other hand, limiting federal disaster assistance could hamper the ability of states and localities to adequately recover from an incident and create long-term consequences.

This report will be updated as events warrant.

Contents

Figures

Tables

Contacts

Introduction

When a state is overwhelmed by an emergency or major disaster, the governor may request assistance from the federal government.[1] In general, when a request is submitted, representatives from the Federal Emergency Management Agency (FEMA) meet with the state and compile a Preliminary Damage Report (PDA). FEMA then makes a recommendation to the President whether a declaration should be issued. The President has the authority to make the declaration, or deny the request.[2]

Since first introduced in1953, the number of declarations issued each year has increased significantly. The average number of major disaster declarations issued per year in the 1960s (the first full decade for declarations) was roughly 19. In contrast, from 2000 to 2009 the average number of declarations issued per year was 56. Calendar year 2011 was the busiest year on record with 99 major disaster declarations.[3]

Congressional concern over the rising number of declarations is primarily focused on their associated costs because once declared, the majority of disaster relief costs (at least 75%) are shifted from the state to the federal government. Moreover, federal expenditures on disaster relief are concomitant with declarations because declarations trigger federal disaster relief programs. Thus, the more disasters are declared, the greater the amount the federal government will spend on disaster assistance. The current fiscal environment, including concern over the federal deficit, has heightened congressional interest in the costs of disasters leading to proposals to offset some portion of disaster assistance spending by implementing budgetary mechanisms that might trigger a sequestration.[4]

Critics may argue that thresholds for issuing major disaster declarations are set too low, allowing too many "marginal incidents" to receive a declaration. The increase in declarations has also led to a number of related criticisms and questions concerning the declarations process. For example, are incidents increasing, or is the federal government being more generous in its interpretation of disaster or emergency criteria? Another point of discussion is the relative capacity of state governments to respond to disaster events. Some have also argued that the government's openness in describing factors considered for declarations has led from a discretionary program into a form of entitlement wherein states believe they have met the factors under consideration.[5]

This report provides a historical overview of the three categories of declarations, including the average number of declarations declared and turned down and distribution of the declarations by incident type and state. This report discusses a wide range of factors that might be contributing to

[1] 42 U.S.C. §5170.

[2] Fire Management Assistance Grants—discussed later in this report—do not need presidential approval to be declared.

[3] U.S. Department of Homeland Security/Federal Emergency Management Agency, *Declared Disasters by Year of State,* available at http://www.fema.gov/news/disaster_totals_annual.fema.

[4] For further analysis on the sequestration and disaster assistance see CRS Report R42352, *An Examination of Federal Disaster Relief Under the Budget Control Act*, by Bruce R. Lindsay, William L. Painter, and Francis X. McCarthy.

[5] 44 C.F.R. §206.48. The publication of factors considered (1999) was made at the request of Congress. While providing greater transparency in the declaration process it also created expectations among state and local governments on when a declaration would occur based on selected factors.

the increase in declarations, and provides policy options that might reduce the number of declarations and some of their associated costs.

Brief Overview of Declarations

Prior to 1950, state and local governments in need of federal assistance after a disaster had to wait until Congress met, debated, and then acted upon their request for disaster assistance. The Federal Disaster Relief Act of 1950 (P.L. 81-875, hereinafter the Disaster Relief Act) altered this arrangement and transferred the authority to provide federal disaster assistance from Congress to the President. Under the Disaster Relief Act, the President had the authority to decide whether to provide disaster assistance and which federal agencies would provide that assistance.

The President's decision to provide federal aid for an incident is known as a "declaration."[6] The first disaster declaration was issued by President Eisenhower on May 2, 1953, for damages caused by a tornado in Georgia. Over the years, the Disaster Relief Act has undergone a series of reforms and amendments, but the President's authority to issue declarations has been retained. Today the principal authority governing federal assistance for emergencies and major disasters in the United States is the Robert T. Stafford Relief and Emergency Assistance Act (P.L. 93-288, hereinafter the Stafford Act).[7] Under the Stafford Act, the primary federal agency responsible for coordinating the federal response is FEMA, located within the Department of Homeland Security (DHS).[8]

Declaration Categories and the Declaration Process

The Stafford Act authorizes three types of declarations: (1) Fire Management Assistance Grant Program declarations (FMAG), (2) emergency declarations, and (3) major disaster declarations. While emergency and major disaster declarations must be issued by the President, the FEMA Regional Director, in consultation with FEMA leadership, has the authority to issue FMAG declarations.[9] A detailed description of each type of declaration is provided in the following sections of this report.

The Stafford Act stipulates several procedural actions a governor must take prior to requesting federal disaster assistance. The governor cannot request a declaration unless he or she determines the event has overwhelmed the state's resources to such an extent that federal resources are needed. The gubernatorial request is vital to the declaration process because the President cannot issue either an emergency or a major disaster declaration, nor can the Regional Director issue a FMAG without the request. The only exception to this rule is the authority given to the President to declare an emergency when the President:

---

[6] For more information on emergency and disaster declarations see CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*, by Francis X. McCarthy.

[7] 42 U.S.C. §5121 et seq. For further analysis on the Stafford Act see CRS Report RL33053, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, by Francis X. McCarthy.

[8] FEMA was incorporated into DHS by the Homeland Security Act. DHS Secretary has re-delegated Stafford Act authority to the Administrator of FEMA.

[9] For more information on FMAGs see CRS Report R43738, *Fire Management Assistance Grants: Frequently Asked Questions*, coordinated by Bruce R. Lindsay.

> determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States can exercise exclusive or preeminent responsibility and authority"[10]

The denial of a gubernatorial request for federal assistance is referred to as a "turndown."

Analysis of Declaration Data

The following sections of this report analyze declarations by category since 1953. The analysis includes the number of emergency and major disaster declarations that have been approved and turned down by the President. The analysis also includes the number of FMAG declarations issued since 1970 (the first year that the grants were provided); however, turndown data for FMAG declarations were not available. The analysis also includes a breakdown of declarations by incident and state for emergency and major disaster declarations. The presentation of the data is based on graduated levels of assistance beginning with FMAG declarations and ending with major disaster declarations.

Fire Management Assistance Grant Declarations

As mentioned previously, while the President has the sole authority to issue an emergency or major disaster declaration, the decision to issue a FMAG declaration can be rendered either by the President or a FEMA Regional Director.[11] A FMAG declaration authorizes various forms of federal assistance, such as equipment, personnel, and grants to any state or local government for the control, management, and mitigation of any fire on public or private forest land or grassland that might become a major disaster.[12] FMAG declarations do not provide assistance to individuals and households. One distinguishing feature of FMAGs is that they are intended to prevent a fire from becoming a major disaster.[13] An additional unique feature of a FMAG is FEMA's work with a "Principal advisor." This is an

> individual appointed by the Forest Service, United States Department of Agriculture, or Bureau of Land Management, Department of the Interior, who is responsible for providing FEMA with a technical assessment of the fire or fire complex for which a state is requesting a fire management assistance declaration.[14]

As with major disaster and emergency declarations, FEMA has the authority to assess the situation, including the state's efforts, the current state of the fire, and its potential impact. However, before a FMAG can be granted, the state or territory must meet a cost threshold, either for that particular fire or for a cumulative state-wide threshold number if the state is requesting help for numerous fires within the state.

[10] P.L. 93-288, 42 U.S.C. §5191(b). Examples of these declarations include the April 19, 1995, bombing of the Alfred P. Murrah Building in Oklahoma City, and the September 11, 2001, attack on the Pentagon.

[11] 44 C.F.R. §204.24.

[12] P.L. 93-288, 42 U.S.C. §5187(a).

[13] P.L. 93-288, 42 U.S.C. §5187(a).

[14] 44 C.F.R. §204.3.

FMAG Determinations

The following criteria are used to evaluate wildfires and make a determination whether to issue a FMAG:

- The threat to lives and property including critical facilities, infrastructures, and watershed areas;
- the availability of state and local fire resources;
- high fire danger conditions based on nationally accepted indices such as the National Fire Danger Ratings System; and
- the potential economic impacts of the fire.

In addition, FEMA uses two types of fire cost thresholds to help determine if a state or tribal nation is eligible for fire assistance: (1) individual thresholds for a single fire, and (2) cumulative thresholds for multiple fires. Cumulative thresholds are applied to multiple fires burning simultaneously, or the accumulation of multiple fires in a single fire season. Threshold amounts vary by state (see **Table 1**).

Individual Fire Threshold

The formula for the individual fire threshold is the state population multiplied by 5%, which is then multiplied by $1.39.[15] In general, if that amount exceeds the state's individual fire threshold, the state is eligible for federal assistance.

For example, the state of Colorado's population is 5,029,196. The individual fire threshold formula for the state is: [5,029,196 x 5% x $1.39 = $349,529]. The state of Colorado would meet or exceed the individual fire threshold if it had a wildfire costing $349,529 or more in damages.

Cumulative Thresholds

The formula for the cumulative fire threshold for a given state is one of two amounts—$500,000 *or* the amount of that state's individual fire threshold multiplied by three. Returning to the Colorado example, the sum of three individual fire thresholds equals $1,048,587. Since that amount is larger than $500,000, cumulative fire damages in Colorado must meet or exceed $1,048,587 to be eligible for assistance. In contrast, the individual fire threshold for Alaska is $100,000, but the cumulative threshold is $500,000, not the sum of three individual fire thresholds ($300,000). For some states, such as Nebraska and West Virginia, the state population is high enough that the individual threshold exceeds $100,000. However, the cumulative threshold for these states is $500,000 because that number is still higher than the sum of three individual fire thresholds.

[15] The formula is [(population) x .05 x $1.39]. The dollar amount is periodically adjusted for inflation by FEMA.

Table 1. Selected Examples of Individual and Cumulative Thresholds

FY2014 Individual and Cumulative Thresholds by State

State	Individual Threshold	Cumulative Threshold
Alaska	$100,000	$500,000
California	$2,589,150	$7,767,450
Colorado	$349,529	$1,048,587
Nebraska	$126,931	$500,000
West Virginia	$128,783	$500,000

Source: FEMA, "FY2014 Fire Cost Threshold." http://www.fema.gov/media-library-data/1389875349045-36f0ce0f02eed0357d4fd151f7056c17/FY14%20Fire%20Cost%20Threshold.pdf.

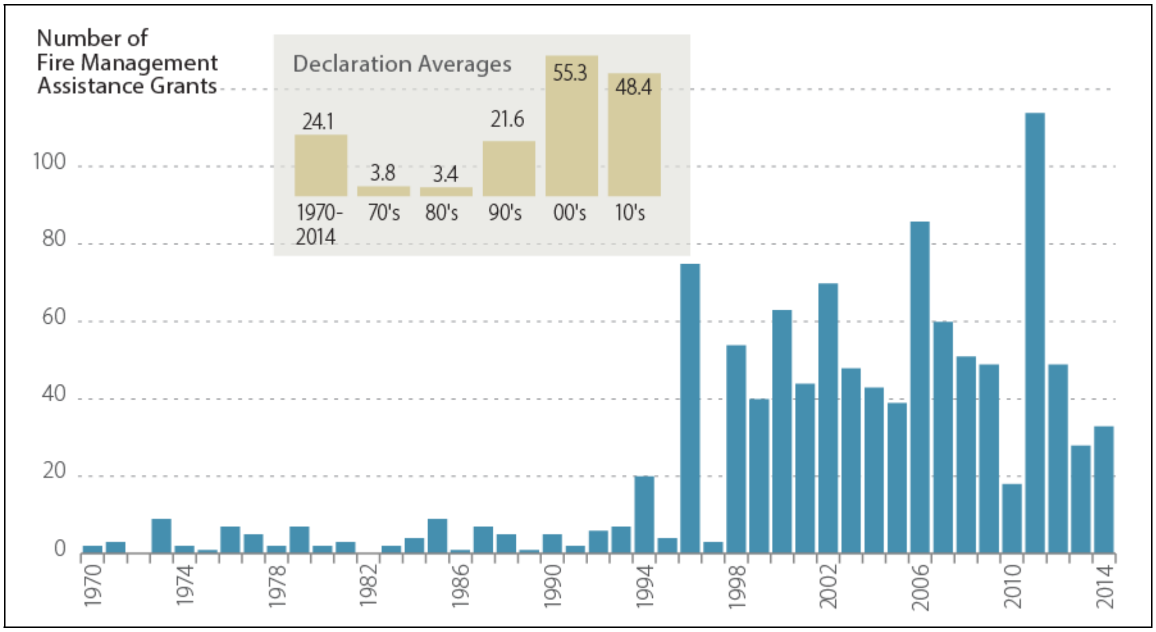
As shown in **Figure 1**, FMAG declarations began to increase steadily in the late 1990s, reaching a high of 114 in 2011. This surpassed the previous high of 86 FMAGs in 2006. As mentioned previously, FMAGS are designed to prevent fires from becoming major disasters. It could be argued that even though the cost for FMAG declarations may have increased, FMAGs may actually save federal dollars by reducing the need for a major disaster declaration which would decrease spending on Stafford Act programs.

As shown in **Figure 1**, the first FMAG was declared in 1970, and they were rarely issued until the 1990s. The average number of FMAGs declared in the 1970s and the 1980s was about three per year. During the 1990s, there were about 21 FMAG declarations per year (see inset of **Figure 1**). This upward trend continued into the 2000s, with an average of 53 FMAG declarations issued each year.

Texas has received the most FMAGs (235 declarations) followed by California (148), Oklahoma (86), Washington (73) and Colorado (59) (see **Figure 2**). Data on FMAG request denials were not available.

Figure 1. Fire Management Assistance Grants

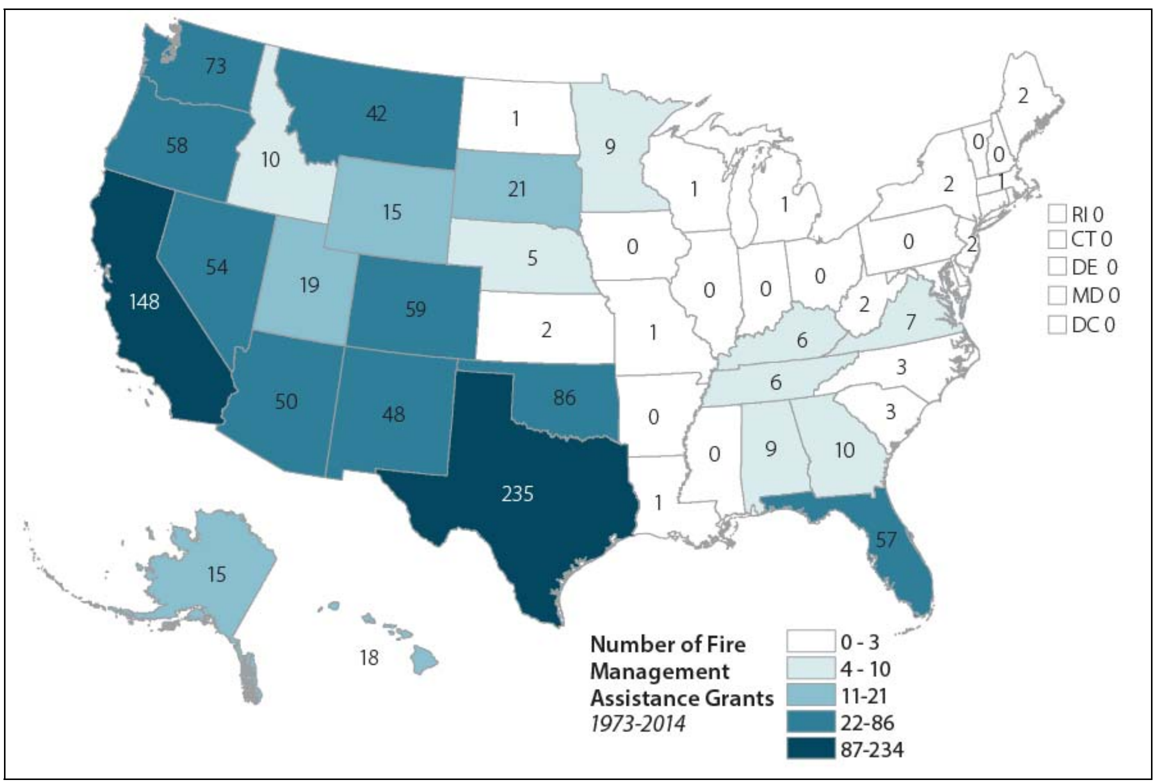
1970-2014



Source: CRS analysis based on data provided by FEMA.

Figure 2. Fire Management Assistance Grants by State

1973-2014



Source: CRS analysis based on data provided by FEMA.

Emergency Declarations

Emergency declarations authorize activities that can help states and communities carry out essential services and activities that might reduce the threat of future damage. Emergency declarations, however, do not provide assistance for repairs and replacement of public infrastructure or nonprofit facilities.[16] Emergency declarations may be declared before an incident occurs to save lives and prevent loss. For example, emergency declarations have been declared prior to a hurricane making landfall to help state and local governments take steps (evacuation assistance, placement of response resources, etc.) that might lessen the storm's impact and prevent a major disaster from occurring.[17]

The Stafford Act broadly defines an emergency 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 in any part of the United States.[18]

As shown in **Figure 3**, the number of emergency declarations declared each year has varied tremendously, from many years receiving no declarations, to 2005 which had 68 declarations. 2005 received the highest number of emergency declarations because each state was issued an emergency declaration to assist with Hurricane Katrina evacuees.

The average number of emergency declarations issued from 1974 to 2014 was 9 per year; the average number of declarations from 2000 to 2014 was 15 (see inset of **Figure 3**).

Emergency Declaration Turndowns

Denials of gubernatorial requests for emergency declarations have remained fairly static each decade (see inset of **Figure 3**), averaging 2.8 per year. There is a slight decrease in denials during presidential election years, from an average of 2.8 per year during nonelection years, to an average of 2.0 during election years.[19] Some might argue this is an indication that Presidents are more reluctant to deny a declaration during an election year. In response to this argument, some might say that such conclusions are unwarranted because the number is statistically insignificant. For more discussion on the influence of politics on disaster declarations see section "Possible Presidential Election-Year Influence on Major Disaster and Emergency Declarations."

[16] For additional information on the differences between major disaster and emergency declarations, see CRS Report RL33053, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, by Francis X. McCarthy.

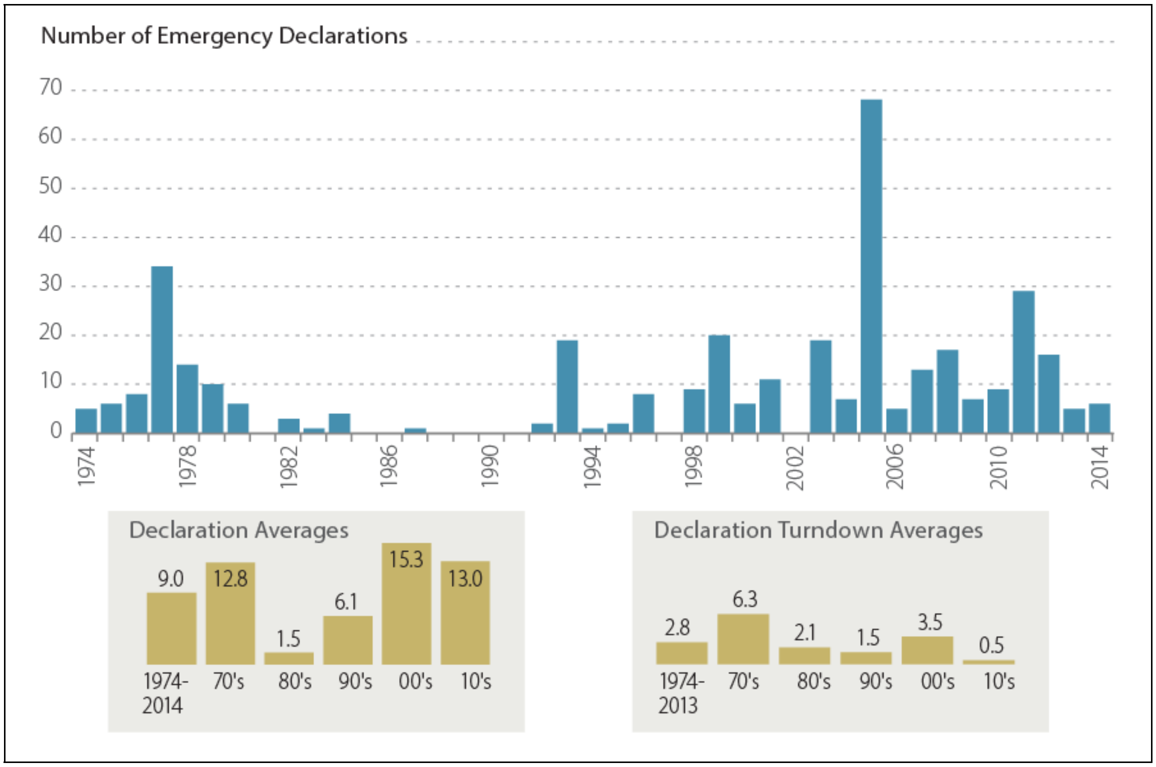
[17] Recent examples of pre-event declarations include emergency declarations prior to Hurricanes Katrina, Rita, Gustav, and Sandy.

[18] P.L. 93-288, 42 U.S.C. §5122(1).

[19] Data not shown. Based on CRS analysis of turndown data provided by FEMA.

Figure 3. Emergency Declarations

1974-2014



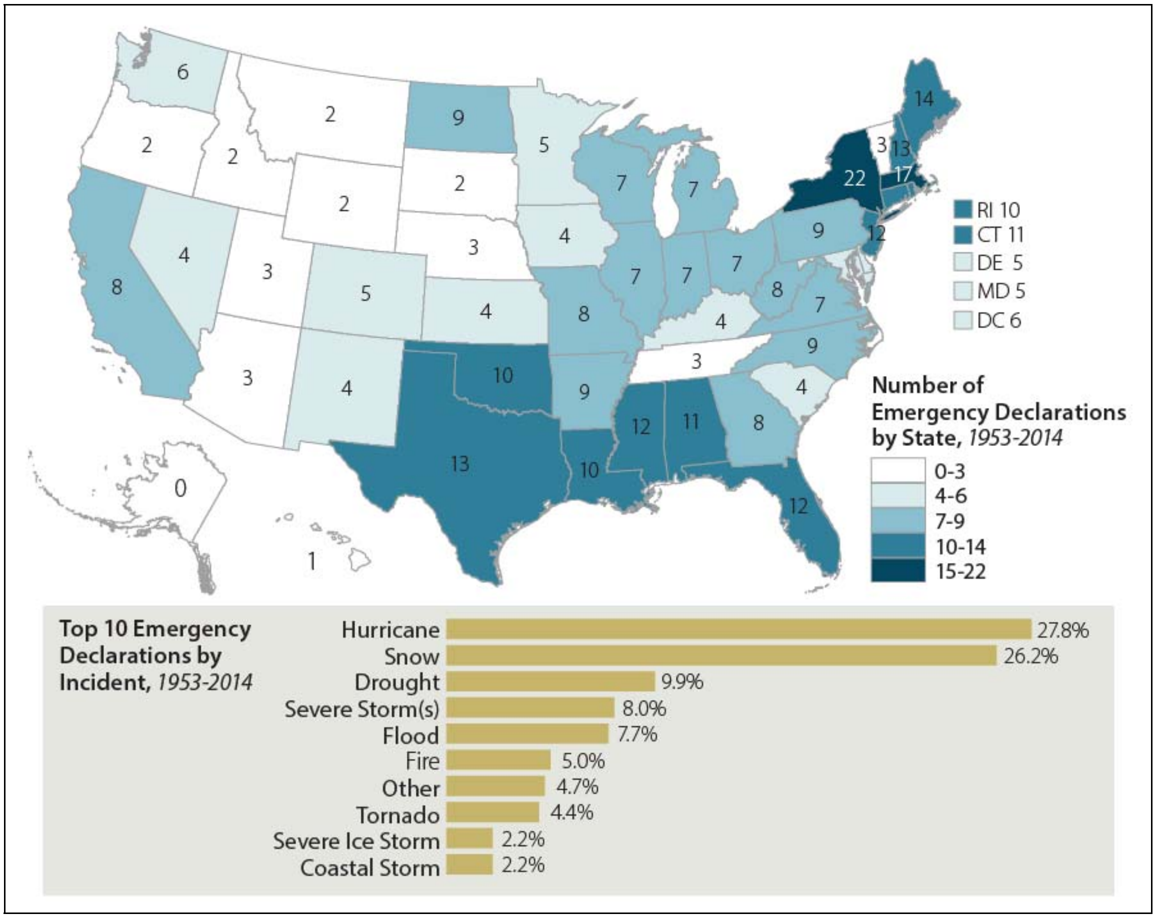
Source: CRS analysis based on data provided by FEMA.

Emergency Declarations by State and Type

As shown in **Figure 4**, New York has received the most emergency declarations (22), followed by Massachusetts (17), Maine, (14), and New Hampshire and Texas (13 each).

Figure 4. Emergency Declarations by State and Type

1974-2014



Source: CRS analysis based on data provided by FEMA.

The majority of incidents declared as emergencies are issued for hurricanes, followed by snow incidents and droughts (see inset of **Figure 4**). As mentioned previously, FEMA does not use specific categories to classify disaster types.

Major Disaster Declarations

The definition for a major disaster is more precise than an emergency declaration, and the range of assistance available to state and local governments; private, nonprofit organizations; and families and individuals is broader. Under a major disaster declaration, state and local governments and certain nonprofit organizations are eligible (if so designated) for assistance for the repair or restoration of public infrastructure, such as roads and buildings. A major disaster declaration may also include additional programs beyond temporary housing such as disaster unemployment assistance and crisis counseling, and other recovery programs, such as community disaster loans.

While emergencies are defined broadly, the Stafford Act defines a major disaster narrowly as

> any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven 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 under this chapter to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.[20]

The average number of major disasters declared per year from 1953 to 2014 is 36. However, beginning in the 1990s there has been an uptick in the number of major disasters declared each year. During the 1990s the average number of declared major disasters is 46, the average number from 2000-2010 is 56, and the average per year from 2010 to 2014 is 67 (see inset of **Figure 5**).

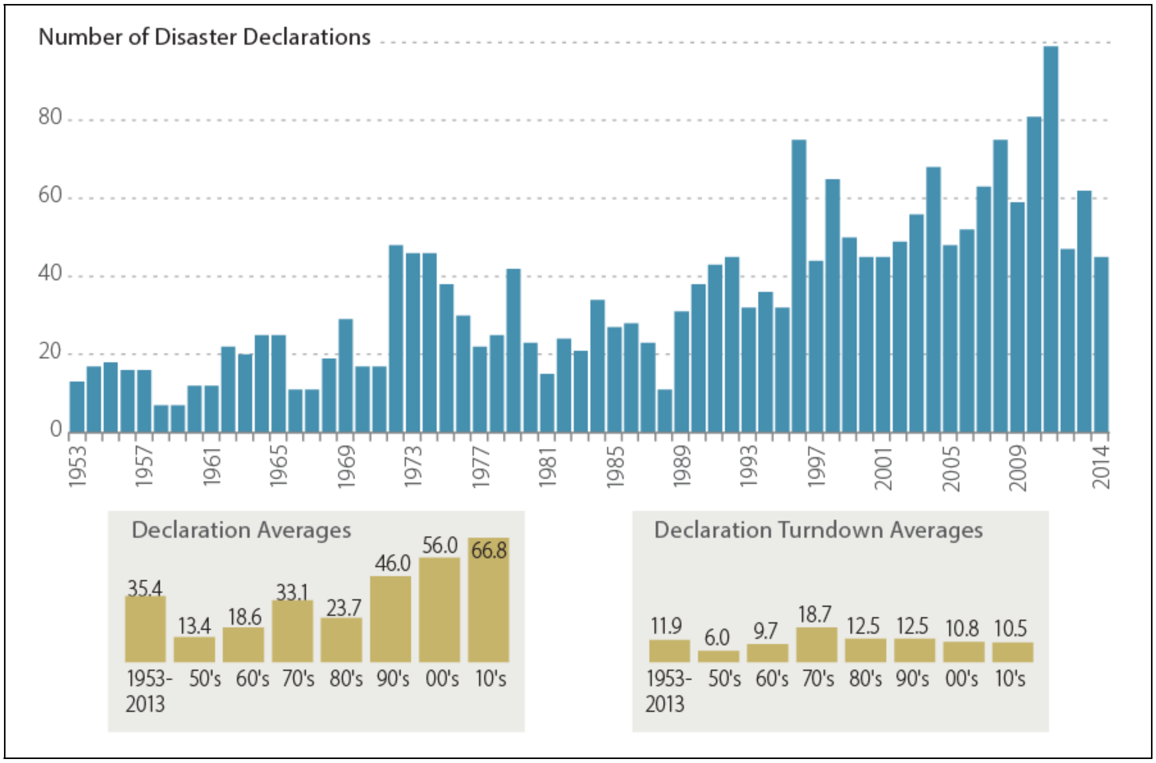
Major Disaster Declaration Turndowns

The President can deny a gubernatorial request for federal disaster assistance (see inset of **Figure 5**). The average number of requests for a major disaster declaration denied by the President since 1953 has varied somewhat, from a low of 6.0 per year from 1953 to 1959 to a high of 18.7 during the 1970s. More recently, the number of presidential denials of requests for major disaster declarations has become more static, averaging 10.8 denials from 2000-2013 (see inset of **Figure 5**).

[20] P.L. 93-288, 42 U.S.C. §5122(2).

Figure 5. Major Disaster Declarations

1953-2014



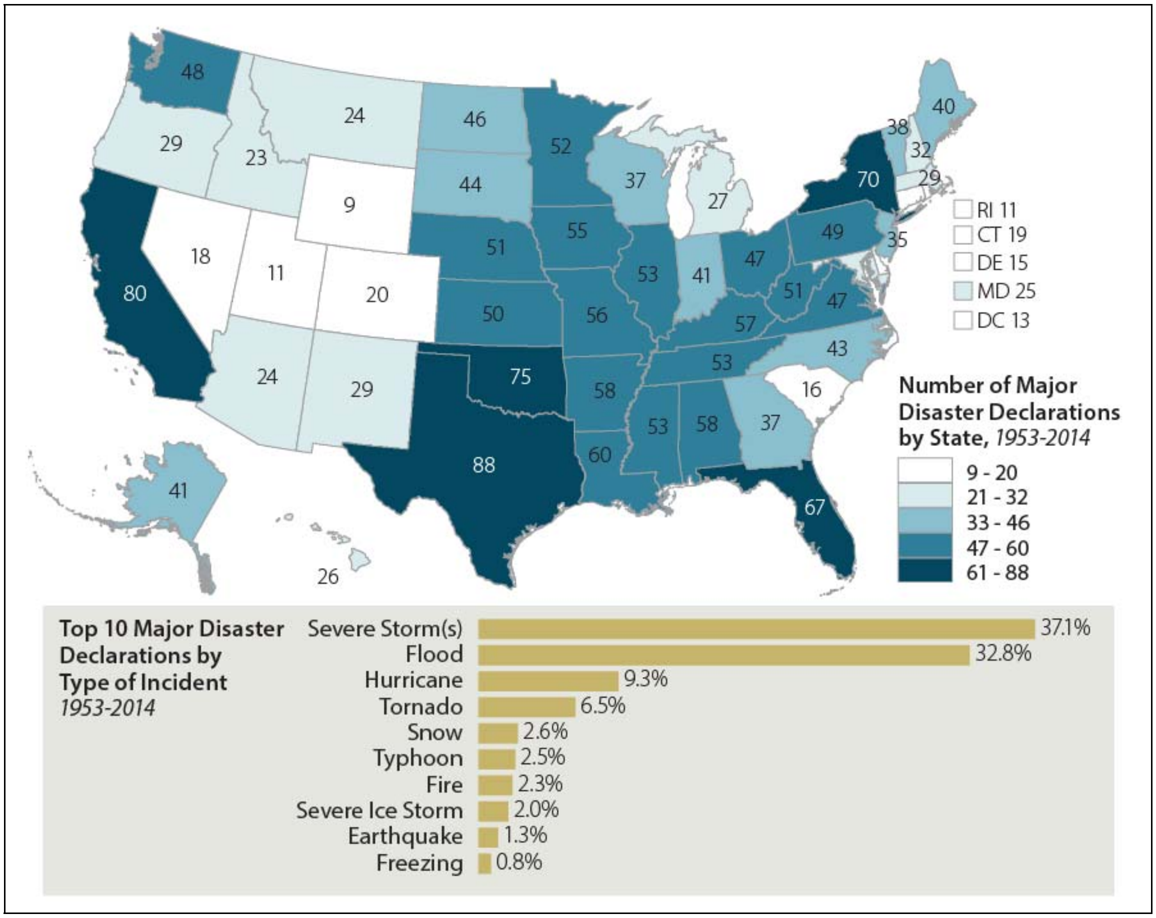
Source: CRS analysis based on data provided by FEMA.

Major Disaster Declarations by State and Type

The majority of incidents declared as major disasters are issued as a result of a severe storm or flood. FEMA does not use specific categories to classify disaster types (see inset of **Figure 6**). The states that have received the most major disaster declarations are Texas (88), California (80), Oklahoma (75), New York (70), and Florida (67) (see **Figure 6**).

Figure 6. Major Disaster Declarations by State and Type

1953-2014



Source: CRS analysis based on data provided by FEMA.

Tribal Declarations

The Sandy Recovery and Improvement Act (SRIA, P.L. 113-2), among several significant changes to the Stafford Act, included the ability of Native American groups to be treated as states and be eligible to request a major disaster declaration directly from the President. Previously, tribal groups were treated as local governments and any request had to be made by the governor(s) of the affected state(s) where the tribal land, infrastructure and populations had been affected by an incident that could warrant consideration for an emergency or major disaster declaration.

Tribes had sought this authority for various reasons. While tribes and Native Americans have long received assistance under Stafford Act declarations, working through the state government for all assistance has been viewed as an issue of tribal sovereignty. States might at times be reluctant to request on behalf of a tribe when the damage was localized on tribal property. Other challenges to administering disaster relief involved language barriers and the physical isolation of some tribal lands. Also, the tribes wished to have the same ability as states to help manage the response and recovery from a disaster. All of these factors created challenges for emergency management following disaster events in tribal areas.

Under this provision in SRIA (now in the Stafford Act Section 401 and 501), the "Chief Executive of an Indian Tribal Government" is able to submit a request for a declaration by the President. In addition, the "Savings provision" of this section ensures that a tribal government is not prohibited from receiving assistance under a declaration made by the President at the request of the governor, if the President has not made a separate declaration for the tribal government. In effect, a tribal government will retain the ability to be treated as a local government in those situations.[21]

There has only been limited use of this authority over the first several years. FEMA is continuing to develop polices on implementation of the tribal authority. As noted in **Table 2**, the initial declarations have been relatively small in terms of federal resources.

Table 2. Tribal Major Disaster Declarations

2013-Present

Tribe	Declaration Number	Obligations	Date
Eastern Band of Cherokee Indians	4103	$6,866,511	3/1/2013
Karuk Tribe	4142	$638,171	8/29/2013
Navajo Nation	4104	$2,365,991	5/3/2013
Santa Clara Pueblo	4151	$10,422,536	10/24/2013
Santa Clara Pueblo	4147	$1,518,448	9/27/2013
Soboba Band of Luiseño Indians	4206	$0[a]	1/27/2015
Standing Rock Sioux Tribe	4123	$736,386	6/25/2013

Source: CRS analysis of FEMA obligations data and declarations data, available at https://www.fema.gov/disasters/.

Notes: Obligations for major disasters often increase over a period of many years, so any costs reflected above are likely to increase in the future.

a. Declaration was declared close to when data was provided to CRS. As a result, obligations are likely to ultimately result from this declaration, even though they were not reflected in that data.

Possible Explanations for the Increase in Declarations

There are a number of factors that might influence the increase in declarations in recent years, ranging from increases in weather incidents to changes in federal policies. This section reviews some of these factors.

[21] For additional information on the SRIA provisions for tribal governments, see CRS Report R42991, *Analysis of the Sandy Recovery Improvement Act of 2013*, by Jared T. Brown, Francis X. McCarthy, and Edward C. Liu.

Increased Weather-Related Incidents

The rise in disaster declarations could be a function of increased severe weather incidents. For example, according to a report produced by an advisory committee chartered under the Federal Advisory Committee Act, for the U.S. Global Change Research Program's Subcommittee on Global Change Research, there is evidence that there has been an increased frequency and intensity of heavy downpours.[22]

Statistical data from 1955-2014 consisting of tornado, hail, and wind events, derived from the National Oceanic and Atmospheric Administration (NOAA), were compared to emergency and disaster declarations.[23] As illustrated in **Figure 7**, the reporting of weather incidents has also increased since the 1950s. In the 1970s and part of the 1980s, the gap between the number of declarations and severe weather incidents widened, with more declarations than reported weather incidents. In the first part of the 1990s the two tracked fairly closely together, but then another gap occurred, this time with more reported weather incidents than declarations. The disparity in the data continued in the early part of the 2000s, with more parity in the latter half of the decade.

To some, the increased number of reported severe weather incidents is evidence that there is a correspondence between the weather and the issuance of declarations. Others might be skeptical of the data. For example, it may be argued that the trend shown in **Figure 7** could be explained by improvements in weather tracking technology. As this technology becomes more sophisticated, more weather incidents are reported. Furthermore, **Figure 7** does not provide statistical information on flooding—the most frequent type of incident to receive declarations—or other incidents such as snowstorms, hurricanes, and droughts. Some may, therefore, conclude that further studies are needed to establish a link between historical weather patterns and declarations.

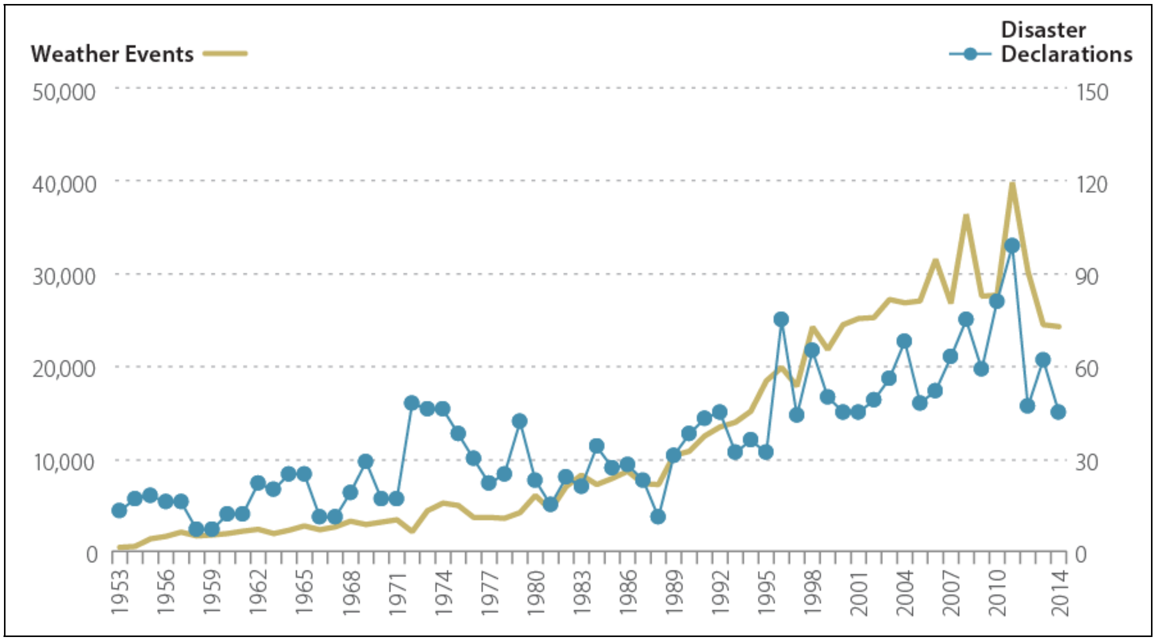
---

[22] *Global Climate Change Impacts in the United States*, ed. Karl, Thomas R., Jerry M. Melillo and Thomas C. Peterson, 9, 12, 24, 32-40. ed. (Cambridge University Press, 2009), available at http://library.globalchange.gov/products/assessments/2009-national-climate-assessment/2009-global-climate-change-impacts-in-the-united-states.

[23] National Oceanic and Atmospheric Administration, *Storm Prediction Center*, SVRGIS, Norman, OK, April 28, 2015, available at http://www.spc.noaa.gov/gis/svrgis/.

Figure 7. Weather Incidents and Emergency and Major Disaster Declarations: A Comparison

Tornado, Hail, Wind—1953-2014



Source: CRS analysis of declaration data provided by FEMA, and weather data derived from National Oceanic and Atmospheric Administration, *Storm Prediction Center*, SVRGIS, Norman, OK, April 28, 2015, available at http://www.spc.noaa.gov/gis/svrgis/.

Increases in Population and Development

From 1953 to 2014 the population of the United States almost doubled—from 160.2 million to 318.9 million.[24] It could be argued that population growth has increased the density of existing communities and spurred development into areas that were previously uninhabited. These areas may have been previously struck by an incident, but because there were no residents in the area, there may have been little or no need to declare an emergency or disaster. Also, states and communities that welcome growth may not wish to discourage it by considering the potential vulnerability to disaster damage and taking what may be unpopular steps to mitigate against such damage.[25]

> As our population grows, more of the nation's citizens live in areas prone to natural disasters, from floods and tornadoes to earthquakes and hurricanes, and some states have taken action to encourage this development for immediate economic gain (in the form of a larger tax base and other benefits). That means the consequences of such events are exacerbated.[26]

---

[24] Population estimates can be found at American FactFinder managed by the U.S. Census Bureau, *Annual Estimates of Resident Population*, May 2015, at http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP_2014_PEPANNRES&src=pt.

[25] This can include upgrading building codes, planning development with an adherence to National Flood Insurance Program (NFIP) mapping, and other steps to decrease the impact of disaster events.

[26] Ronald J. Daniels, Donald F. Kettl, and Howard Kunreuther, *On Risk and Disaster* (Philadelphia: University of (continued...)

In the case of previously existing communities with higher population densities, the number of households and dwellings may have caused the costs of the associated damages to rise beyond the state's capacity to financially recover from the event. This tendency is magnified in coastal development:

> Coastal development also has become a lucrative economic force for private investors. The deluge of people living on and near the coasts is not merely a fad that soon will yield to a preference for inland locations. It is largely a result of population growth combined with the beauty and economic promise of coastal areas. This growing interest in coastal development, combined with a strong economy, in recent years has increased the pressure on landowners to sell or develop.[27]

In addition, the costs of recovering from disasters may have also grown due not only to the growing population but also to increased standards of living and an increasing reliance on interdependent technical systems—both of which are expensive to repair and replace.

Policy Changes and Political Considerations

A number of federal policy changes have occurred since 1953 that may also help to explain why the number of declarations being issued each year has been increasing as well as the federal costs of those declarations. These include changes in (1) federal legislation and (2) various FEMA declaration policies. In addition, some have postulated that the declaration process has become politicized, attributing the increase to political motivations.

Evolution of Federal Disaster Policy

From 1950 through 1980, the federal role in disaster response and recovery gradually expanded, both through executive action and legislation. In the 1950s, the federal approach to disaster assistance was less comprehensive than today. In general, the assistance consisted of initial repairs to infrastructure, modest assistance to help families and individuals, and loans for homeowners and businesses. Later there was an eventual emphasis on mitigation to lessen the effect of future disaster events. Key legislation was passed in each decade, but especially in the 1970s, that addressed distinct problems caused by natural disasters.[28] This was also the time when FEMA was created by President Jimmy Carter under his reorganization plan of 1978.[29] As one observer summarized the myriad of actions taken during this period:

> For almost thirty years the federal government had, at different times, inched toward a policy that gave administrators a superior and determinative role in emergency management. At times during that period federal policy received a hard push from nature, such as the Alaska earthquake or Hurricane Betsy. Periodically, members of Congress or administration

(...continued)

Pennsylvania Press, 2006), p. 3.

[27] The H. John Heinz III Center for Science, Economics and the Environment, *Human Links to Coastal Disasters*, Washington DC, 1994, pp 23-24, http://www.heinzctr.org/Major_Reports_files/Human%20Links%20to%20Coastal%20Disasters.pdf.

[28] P.L. 93-288, Disaster Relief Act Amendments of 1974. Later named in honor of former Vermont Senator Robert Stafford.

[29] Executive Order 12127, "Federal Emergency Management Agency," 19367, March 31, 1979.

> officials nudged federal policy in a different direction. By 1978, however, experience had shown that coordination of federal and nonfederal action, not dispersion, was the best approach.[30]

From that period a federal/state framework had been created that was, ironically, not really tested during the 1980s. That relatively quiet decade for natural disasters did not have large disaster events to present challenges to the disaster relief programs nor large supplemental expenditure requests for Congress. As a result, disaster policy changes that would later address an increasing number of unique and devastating disaster situations and result in presidential declarations were not challenged or employed until the 1990s.

P.L. 106-390, the Disaster Mitigation Act of 2000 (hereinafter DMA2K) established for the first time a pre-disaster mitigation program to reduce risk regardless of disaster declarations.[31] While the PDM program was funded separately outside of the President's Disaster Relief Fund, DMA2K also permitted increased funding to states under the Hazard Mitigation Grant Program (HMGP), which is funded from the DRF.[32] However, while DMA2K increased potential mitigation spending, it also capped home repair costs at $5,000 per household, which limited disaster spending in that category.[33]

The most recent significant legislation affecting the administration of disaster relief was the Post-Katrina Emergency Reform Act of 2006, P.L. 109-295 (hereinafter PKEMRA). This legislation was developed in response to the problems encountered in the recovery from the Gulf Coast storms of 2005. While the legislation did not alter the declaration process, it did make several changes to Stafford Act authorities that increased the available aid for post-disaster recovery. For example, the $5,000 cap that was enacted in 2000 was repealed. Also, PKEMRA included authority for states to provide case management services for disaster victims as well as assistance for transportation.[34]

In 2013 Congress passed the Sandy Recovery and Improvement Act of 2013, P.L. 113-2, in response to the impact of Hurricane Sandy. This also had significant amendments to the Stafford Act and the administration of disaster relief assistance. In addition to including a tribal declaration policy, the legislation also made major adjustments to the Public Assistance program and other Stafford Act authorities.[35]

---

[30] Keith Bea, "The Formative Years: 1950-1978," in *Emergency Management: The American Experience 1900-2010*, ed. Claire B. Rubin, 2nd ed. (Boca Raton, FL: CRC Press, 2012), p. 111.

[31] 42 U.S.C. §5133.

[32] 42 U.S.C. §5170c.

[33] 42 U.S.C. §5174 (c)(2)(C), later removed by P.L. 109-295.

[34] For further analysis on PKEMRA, see CRS Report RL33729, *Federal Emergency Management Policy Changes After Hurricane Katrina: A Summary of Statutory Provisions*, coordinated by Keith Bea, p. 36.

[35] For additional analysis of the SRIA provisions see CRS Report R42991, *Analysis of the Sandy Recovery Improvement Act of 2013*, by Jared T. Brown, Francis X. McCarthy, and Edward C. Liu. Also, for a detailed analysis of the changes to the Public Assistance program see CRS Report R43990, *FEMA's Public Assistance Grant Program: Background and Considerations for Congress*, by Jared T. Brown and Daniel J. Richardson.

Changes in FEMA Policy

In addition to the factors that might influence the President's decision to issue a declaration, there are agency-level policy changes at FEMA that may play a role in increasing declarations, including changes in how FEMA handles snowstorms, the use of pre-landfall declarations for hurricane response preparations, and the shift to a more transparent declaration process.

Snow Declarations

One example of how an administrative practice can affect the number of major disaster declarations is FEMA's recent adjustment in snow policy, which began in November 2009. Formerly, 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. However, since FEMA published new regulations for snow declarations in 2009, the agency is now considering most, but not all, snow-related events as major disasters.[36] 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.[37]

In FY2010, the change in snow policy meant that 16 previously designated "snow emergencies" were now "snow disasters" (this number included multiple declarations for states affected by the storms of December 2009 and February 2010 in the National Capital Region). Without the snow policy change, the total number of major disasters for FY2010 would have been 65, placing that year in a tie for the fourth-busiest year with FY1998.[38] While it was still a significant year for declarations, the change in snow policy increased the number of major disaster declarations. Similarly, in 2011, there were 16 major disaster declarations that referenced as their cause either severe winter storm or snow storm. Absent those declarations, the record-setting total number of declarations for 2011 drops from 99 to 83.

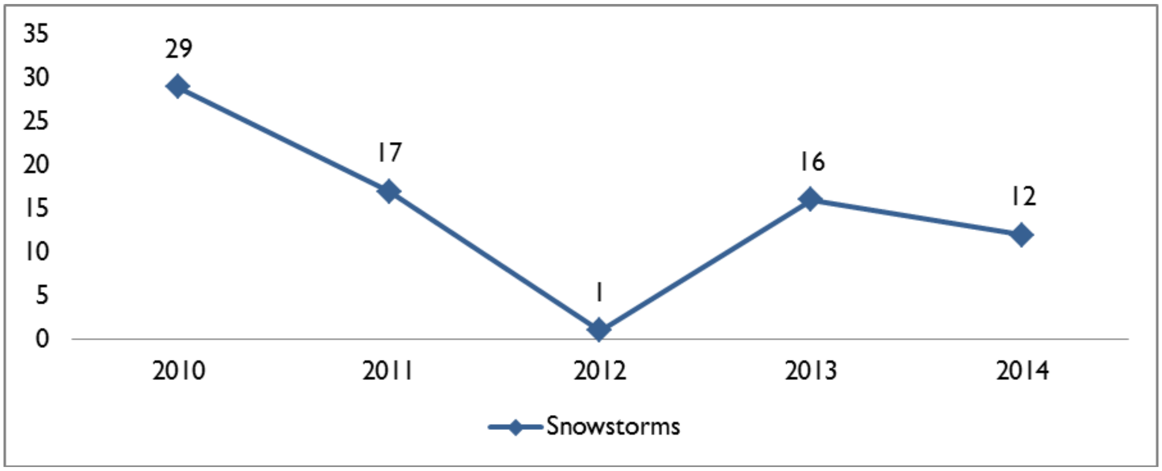
---

[36] One recent exception was the emergency declaration on October 31, 2011, for the snow event in Connecticut. This snow emergency was reclassified as a major disaster declaration on November 17, 2011.

[37] U.S. Department of Homeland Security, Federal Emergency Management Agency, "Snow Assistance and Severe Winter Storm Policy," 74 *Federal Register* 57509, November 6, 2009.

[38] U.S. Department of Homeland Security , FEMA, "Declared Disasters by Year or State," available at http://www.fema.gov/news.disaster_totals_annual.fema.

Figure 8. Declarations for Winter Storm Incidents



Source: CRS analysis of FEMA DRF obligation data provided in January of 2015.

Notes: The categorization of major disaster declarations in the dataset does not specify incidents wherein a declaration was issued solely based upon a snowstorm. 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, freeze, or ice. The descriptions provided by FEMA include all of the factors that contributed to the damage, so it is likely that the obligations below include funding for damage that was not caused by snow.

Pre-Landfall Declarations

While traditionally FEMA had taken a "management of consequences" approach to most disasters and waited for a storm's impact before addressing a governor's request, in the late 1990s FEMA began to treat hurricanes differently. Due to the lead time provided by the tracking of hurricanes, FEMA began, in 1999, to issue emergency declarations in advance of hurricanes making landfall. The impetus for this policy was to supplement, and thus strengthen, state evacuation efforts and related work by state and local governments to reduce the impact of the hurricanes.

These types of declarations are now governed by FEMA policy guidance and are frequently employed.[39] For example, during the hurricane season of 2011 there were pre-landfall emergency declarations made in 11 states and territories for Hurricane Irene. Similar emergency declarations were made for the Gulf Coast states prior to the impact of Hurricane Katrina, and the East Coast states for Hurricane Sandy. While federal expenditures may be little different, the number of declarations in these instances is doubled when a state receives both an emergency and major disaster declaration for the same event.[40]

These pre-landfall declarations are made for states "immediately threatened with impact from a major hurricane or typhoon." The guidance suggests these declarations be made for storms projected to a category 3,4, or 5 on the Saffir/Simpson scale. However, as with any declaration,

[39] FEMA Policy FP-010-4, "Pre-Disaster Emergency Declarations Requests," May 18, 2012 (supersedes policy guidance, July 18, 2007).

[40] Spending is likely not increased since, under previous policy, much of the emergency spending may have been captured as eligible within a longer incident period. The benefit of the separate emergency declaration is that it makes federal; assistance available more rapidly and likely contributes to the confidence of state and local governments in carrying out emergency services with an assurance of partial reimbursement.

the President retains discretion to make the decision on whether a declaration is made. This is an example of a change in FEMA policy that has increased the number of declarations over the last dozen years.

Transparency of the Declaration Process

The disaster declaration process begins with a dynamic event and is generally considered to be open and relatively transparent as it proceeds. In addition, the disaster declaration process, though subject to inquiry, argument, hearings, studies and recommendations, has changed very little over time. It remains a process that can be observed and evaluated as it occurs in the area affected by the disaster, and grows opaque as it moves up through layers of FEMA and DHS management to the White House.

That observation reflects the fact that damage assessments are done publicly with federal, state, and local officials working together to determine the amount of eligible damage. Similarly, the governor's letters requesting federal, supplemental help are usually available to the public. In that respect, FEMA provides a template to state emergency management offices so they can anticipate the types of information that should be provided (including legal language regarding state activities, state commitments toward program cost shares, and other necessary information).

With the encouragement of Congress, FEMA has gradually revealed increased portions of the disaster declaration process. The prime example of this greater openness is the set of regulations that details the factors FEMA considers when evaluating a governor's request. These regulations first appeared in the *Federal Register* in September 1999.[41]

Another step in the direction of transparency was the publishing, on FEMA's website, of the preliminary damage assessments (PDAs) that help to inform both the governor's decision on whether to make a request as well as the declaration decision itself. FEMA now makes available for public review all PDAs dating back to 2007.[42]

The move toward greater transparency may have shifted the way in which FEMA makes recommendations to the President as to whether incidents are worthy of federal assistance. Prior to the move for greater transparency, FEMA officials could have private discussions to evaluate a range of factors when determining a state's financial capacity to respond to an incident without federal assistance. These factors could include the state's economic well-being, whether the state had a budget surplus, among others. These factors are often subjective and difficult to quantify, which in turn makes the rationale for certain recommendations more difficult to justify. Some would contend that recommendations that are exclusively based on per capita thresholds make the recommendation process appear more equitable, but in reality just using per capita thresholds to determine whether to provide disaster assistance eliminates important factors that establish state capacity. It could be argued that the move toward transparency eliminated private and frank discussions concerning state capacity that could potentially prevent a state from receiving federal assistance for an incident it could conceivably have handled on its own.

---

[41] Federal Emergency Management Agency, "Disaster Assistance; Factors Considered When Evaluating a Governor's Request for a Major Disaster Declaration," 64 *Federal Register* 47698, September 1, 1999.

[42] U.S. Department of Homeland Security, Federal Emergency Management Agency, *Preliminary Damage Assessment Reports,* available at http://www.fema.gov/rebuild/recover/pda_reports.shtm.

Finally, as emergency managers have become more knowledgeable of the declaration process and the use of per capita indicators, they may dissuade the governor from making a request when they believe the per capita threshold for their particular incident is too low. Consequently, this may explain, in part, why the number of declaration turndowns has decreased over the years (see inset of **Figure 5**), because it is possible that fewer incidents are being submitted that are likely to be denied.

Possible Presidential Election-Year Influence on Major Disaster and Emergency Declarations

Critics argue that in the past two decades, presidents are more likely to issue a declaration during a presidential election year, and the year prior to an election year.[43] They would also argue that declaration turndowns are influenced by election cycles.

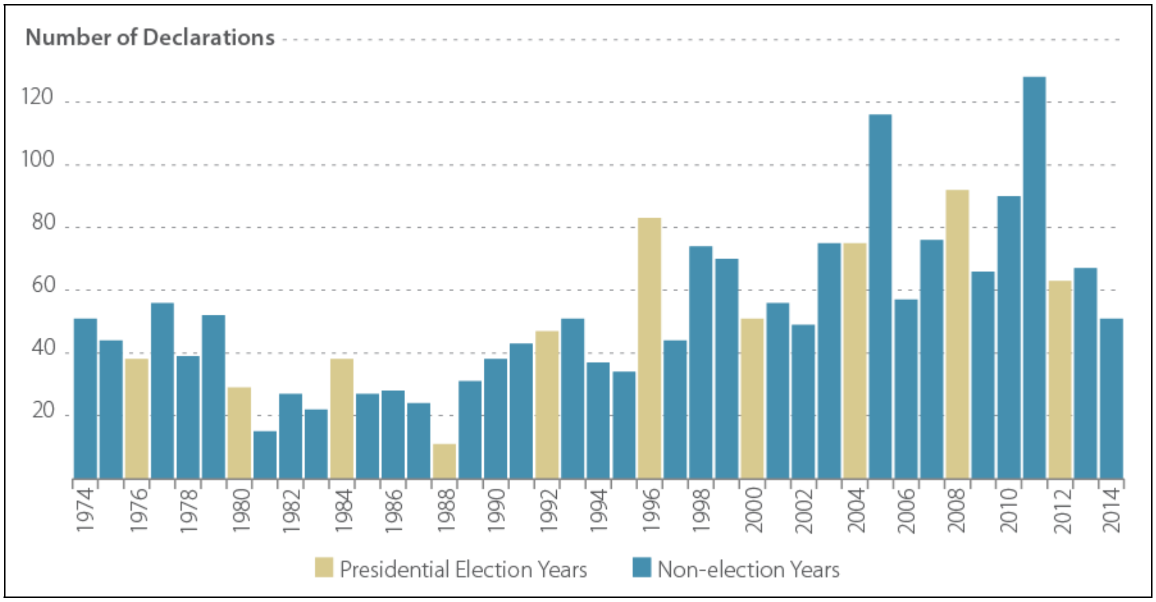
The data indicates that there is a slight increase in the number of major disaster declarations, and a slight decrease in the number of declaration turndowns, during presidential election years. However, there is also a slight decrease in the number of emergency declarations. From 1990 to 2013 the average numbers of major disaster declarations and emergency declarations during a nonelection year were 53 and 12, respectively. The average number of declared major disasters during a presidential election year increased to 59, while the average for emergency declarations fell to 9 per year. In total, there were a combined average of 65 emergency and major disaster declarations in nonelection years, and a combined average of 68 in election years (see **Figure 9**). The number of major disaster declaration turndowns during nonpresidential election years from 1990 to 2013 was 12, and decreased to 11 during election years (data not shown).[44] Turndowns for emergency declarations, on the other hand, averaged 2.2 per year during nonelection years and remained steady at 2.0 during election years (data not shown).

[43] For example, see Jessica Zuckerman, *An Election-Year Trend: Disaster Declarations on the Rise*, The Heritage Foundation, January 4, 2012, available at http://blog.heritage.org/2012/01/04/an-election-year-trend-disaster-declarations-on-the-rise/.

[44] Data on turndowns were only available through the end of FY2013. The publicly-available Disaster Declarations page maintained by FEMA only includes those that were ultimately declared, not all that were requested.

Figure 9. Possible Influence of Elections on Major Disaster and Emergency Declarations

1990 to 2014



Source: CRS analysis based on data provided by FEMA.

The increase in declarations and decrease in turndowns may lead some to conclude that political factors influence declarations decisions during presidential election years. It could be argued that while a President may be motivated to issue a declaration or be reluctant to deny a declaration for political reasons, it is difficult to establish evidence to support this position. As demonstrated in **Figure 9**, the differences in presidential election years and nonelection years are slight. Moreover, methodologically, there are more nonelection years in the sample than election years, which may skew the results since an increase in the sample will usually generate a figure that is more statistically normal. Additionally, there are not enough data points since to draw a conclusion on recent elections.[45] Finally, the slight increase in declarations during election years could be the result of other variables that have been described in this report.

The Debate over Politics and Declarations

Some contend that presidential decisions on whether to issue a declaration are increasingly linked to political considerations. As with the above example, they argue declarations are more likely to be issued around presidential election years in an attempt to garner media coverage and gain approval of voters in a state that has been stricken by an incident.[46] Another, similar argument, is that congressional districts sharing the President's party affiliation are more likely to be issued a disaster declaration. Both of these arguments are difficult to prove and recent studies on this issue have led to differing conclusions. For example, in a 2002 study economists Thomas A. Garrett and Russell S. Sobel postulated:

[45] Thirty data points are needed to establish statistical significance.

[46] For example, see Jessica Zuckerman, *An Election-Year Trend: Disaster Declarations on the Rise*, The Heritage Foundation, January 4, 2012, available at http://blog.heritage.org/2012/01/04/an-election-year-trend-disaster-declarations-on-the-rise/.

> States politically important to the President have a higher rate of disaster declaration by the President, and disaster expenditures are higher in states having congressional representation on FEMA oversight committees. Election year impacts are also found.[47]

Other researchers have been unable to deduce the same bias:

> There was no evidence of a statistically significant relationship between success in acquiring major disaster declarations and any of the remaining partisanship, biased vote-seeking, or overwhelming need predictor variables.[48]

Some may contend that the argument that declaration approvals and denials have increased solely due to political motivations may be making the unwarranted assumption that weather patterns, development, and increases in population have remained static or near static over the past six decades. For example, it could be argued that President Reagan's number of approvals of gubernatorial requests was low and his record of turndowns was high, representing a conservative ideological approach to governing in the disaster realm. However, very few natural disaster events occurred during President Reagan's presidency (see **Figure 7**). Had there been more disasters he may have approved more gubernatorial requests for assistance. In addition, to some the argument that declarations are politically motivated is weakened when one questions what an incumbent President not running for reelection would have to gain by issuing more declarations.

Finally, if major disaster declarations are tied to elections, then one would expect the number of major disaster declarations to have been high for election year 2012. However, there were only 47 major disasters declared in 2012, which was the lowest number for a single year since 2001.

24-Hour News Networks and Personal Video Devices

A related issue that may influence the President's decision to issue a declaration is the rise of 24-hour news networks in the last three decades. As previously mentioned, news coverage and broadcasts of emergencies and major disasters have increased significantly since in the 1980s. The rise in news coverage is attributed, in part, to technological advances in electronics and satellite communications that began in the latter part of the 1980s. These advances eventually gave rise to 24-hour news networks that provide live coverage of emergencies and disasters. The striking images of emergencies and major disasters make the footage of these events highly desirable in media outlets. The miniaturization of cameras and the availability of video via cell phones and other devices have also increased the availability of footage of such events.

The advances in technology over the past 30 years have led to increased media coverage of disasters. During that same time frame some have suggested that Presidents have taken a greater interest in disasters as a meeting point of politics and public policy. For example, it is now customary for a President to visit a major disaster site to demonstrate responsiveness to the incident as well as show empathy and concern toward disaster victims.[49]

---

[47] Thomas A. Garrett and Russell S. Sobel, "The Political Economy of FEMA Disaster Payments," *Economic Inquiry,* Vol. 41, No. 3, July, 2003, p. 496, available at http://www.be.wvu.edu/divecon/econ/sobel/All%20Pubs%PDF/The%20Political%20Economy%20FEMA%20Disaster%20Payments.pdf.

[48] Richard S. Salkowe and Jayajit Chakraborty, "Federal Disaster Relief in the U.S.: The Role of Political Partisanship and Preference in Presidential Disaster Declarations and Turndowns," *Journal of Homeland Security and Emergency Management,* Vol. 6. 2009. p. 13.

[49] Richard T. Sylves, *Disaster Policy and Politics: Emergency Management and Homeland Security* (Washington DC: (continued...)

In addition, the proliferation of media coverage of emergencies and major disasters extends public scrutiny of the handling of the incident beyond just those in the disaster area. Higher levels of scrutiny, whether justified or not, may compel the President to declare an emergency or major disaster to show compassion to the disaster victims and demonstrate responsiveness to the incident. As one observer suggests:

> Some of the increase in presidential disaster declarations may be directly attributable to television news coverage; this is because media coverage of disasters and emergencies imposes political pressure on the president to demonstrate concern and offers a unique opportunity to demonstrate assertiveness, compassion, and strong decision-making skills. Public officials tend to use the news media to demonstrate their sympathy for disaster victims and to decry slow emergency response and relief efforts.[50]

Scholars studying disasters have argued that the President's handling of a disaster has consequences. According to professor Richard T. Sylves, a noted expert on emergency and disaster declarations, the perceived mishandling of Hurricane Andrew damaged President George H. W. Bush's image in Florida and may have contributed to his defeat in the 1992 presidential election.[51] It could be argued that if a President fails to issue a declaration he might be perceived as callous or indifferent to the disaster-stricken state. In the cases of "marginal" disasters—disasters that arguably could be handled by the state without federal aid—the greater the intensity of national news coverage of the event, the more the President is arguably compelled to provide federal aid.

Changes in State Policies and Circumstances

In addition to the federal elements that may have played a role in the increases in major disaster declarations, there are a number of state-level factors that have made the states more likely to request a declaration than in years past. These may be the result of various factors including (1) budget shortfalls, (2) a "learning curve" in declarations, and (3) the professionalization of emergency management.

State Budget Gaps

The recession that began at the end of 2007 led many states to experience heightened levels of fiscal stress, primarily because state revenue growth either stagnated, or in some states, declined. Because most states are required to balance their budgets, states have been forced to increase taxes and fees and/or reduce expenditures to address gaps in their budgets. According to a report issued by the National Governors Association and the National Association of State Budget

---

(...continued)

CQ Press, 2008), p. 219.

[50] Claire Rubin, Ed. *Emergency Management: The American Experience 1900-2010, 2nd Edition,* (CRC Press: Boca Raton, 2012), p. 131. Excerpt: Gary L. Wamsley, et al. *Coping with Catastrophe: Building an Emergency Management System to Meet People's Needs in Natural and Manmade Disasters* (Washington DC: National Academy of Public Administration, 1993).

[51] Richard T. Sylves, *Disaster Policy and Politics: Emergency Management and Homeland Security* (Washington DC: CQ Press, 2008), p. 85.

Officers, state fiscal conditions are improving but many states are still not back to prerecession levels.[52]

It could be argued that the budgetary stress caused by the economic contraction has encouraged states to seek federal funds to help offset state disaster costs. In prior years they may have funded the recovery with their own funds, but now they may be more likely to seek assistance from the federal government. Similarly, in years past, a state may have had sufficient funds for a rainy day fund to pay for unanticipated incidents. However, during periods of budgetary constraints, some states may not have any rainy day funds available to use for disaster assistance.

The Learning Curve of Declarations

When a request for an emergency or major disaster is approved by the President for a certain type of incident, other states may take notice and request assistance for a similar incident. It is conceivable that the state may not have thought to ask for the declaration had it not been previously approved for another state. In this way, "declaration creep" might occur over time as states learn what types of incidents might qualify for a declaration.

The Professionalization of Emergency Management

Since 2001, many states have created state emergency management agencies staffed by professional emergency managers. In addition, many colleges and universities offer degrees in emergency management and homeland security. In a speech at the FEMA Higher Education Conference in 2004, Wayne Blanchard, manager of the Emergency Management Higher Education Project at FEMA's Emergency Management Institute, stated that emergency management programs had grown from 95 to 113 since 2003, with another 97 programs under investigation or development.[53] By 2006, the number of emergency management programs had grown to 120.[54] By 2014, the number of programs in emergency management was 147.[55] The increase in the number of programs may be producing graduates who go on to be emergency managers that are more likely to be knowledgeable with the declaration process. In addition, technological advances enable emergency managers at the state level to gather information necessary to make a disaster declaration request more rapidly than in the past:

> Owing to advances in information technology, state emergency managers at the close of the twentieth century were likely better able to document the disaster loss than they were in the 1970s. State and local governments became more expert in using information technology to document disaster losses and more proficient in proving their need for federal assistance, which gave them a stronger factual basis for requesting a presidential disaster declaration.

[52] National Governors Association and the National Association of State Budget Officers, *The Fiscal Survey of States*, Washington, DC, 2012, p. vii, available at http://www.nasbo.org/sites/default/files/Spring%202012%20Fiscal%20Survey_1.pdf.

[53] Federal Emergency Management Agency, *Status Report: Emergency Management Higher Education Project*, Emmitsburg, MD, June 8, 2004.

[54] Lucien G. Canton, *Emergency Management: Concepts and Strategies for Effective Programs* (Hoboken, NJ: Wiley, 2007), p. 79.

[55] Based on a count of associates, bachelors, masters, and PhD. degree programs, as well as concentrations and specializations in emergency management drawn from Federal Emergency Management Agency, *The College List: Colleges, Universities and Institutions Offering Emergency Management Courses*, Emmitsburg, MD, May 5, 2015, available at http://www.training.fema.gov/emiweb/edu/collegelist/.

> This may have contributed to the trend in declining turndowns of requests for federal assistance.[56]

As a result of this changing environment, state emergency managers may have more confidence in advocating a request for a declaration. Conversely, the state emergency manager may dissuade the governor from requesting a declaration if the emergency manager believes the incident is likely to be turned down.

Potential Methods for Controlling Declarations and Their Cost

If the increase in the number of declarations is a concern perhaps for the federal costs that accompany them (or for other reasons which have been discussed in this report), Congress may choose to address the issue. Addressing the issue may be conceptualized as two approaches: (1) limiting the number of declarations and (2) limiting the amount of spending that can occur after the declaration has been made.

The following section could be used to frame a potential debate on limiting the number of declarations being issued, limiting the assistance provided after a declaration has been declared, or both.

Rationale for Keeping the Declaration Process the Same

To many, providing relief to disaster victims is an essential role of the government. In their view, the concern over costs is understandable given concerns over the national budget. However, they may argue that the increase in the number of declarations being issued is justified because the declarations are tied to increased inclement weather, population growth, and development. Moreover, they say providing assistance to disaster-stricken areas is both acceptable and needed to help a state and region's economy to recover from a storm that it otherwise may not be able to recover from on its own.

A similar argument could be made that the number of declarations should be allowed to increase to meet the needs caused by population growth and development as well as inclement weather activity. However, there could be adjustments to limit the amount of federal assistance that is granted once the declaration has been issued.

Limiting the Number of Declarations Being Issued

Others may argue that the number of declarations being issued should be limited. The following sections review some policy mechanisms that could be employed to decrease the number of declarations that are being issued. The primary method consists of preventing what may be perceived to be marginal incidents from triggering federal assistance. These include changing the

[56] Claire Rubin, Ed. *Emergency Management: The American Experience 1900-2010, 2nd Edition,* (CRC Press: Boca Raton, 2012), p.158.

definitions of emergency and disaster in the Stafford Act, and changing the per capita formula for determining whether a disaster is sufficiently large to warrant federal assistance.

Changing Emergency and Disaster Definitions in the Stafford Act

Some argue that the Stafford Act has enhanced presidential declaration authority because emergencies and major disasters in Sections 102(1) and 102(2) of Stafford Act are ill-defined.[57] Because of the expansive nature of the definitions under the Stafford Act there are not many restrictions on the types of emergencies and disasters for which the President may issue a declaration.[58]

Changing the Per Capita Formula

The DHS Inspector General (IG) issued a report in May 2012 which noted that FEMA had been using a $1 per capita damage amount since 1986 for determining during its preliminary damage assessment process if it would recommend to the President that the event was beyond the capacity of state and local governments to deal with without federal assistance. They also explained that FEMA did not begin adjusting that number for inflation until 1999. The IG pointed out that if the inflation adjustment had been occurring over that 13-year period, from 1986 to 1999, fully 36% fewer disasters would have qualified for a presidential declaration based on that factor.[59]

However, the actual factors considered for a declaration did not become public until 1999. At the behest of Congress, it was in that year that FEMA began to print the factors that were considered in regulation. Until then, that information had been within the "pre-decisional" part of the process in the executive branch. However, in 1999 FEMA began to identify factors considered for both Public and Individual Assistance.[60] That is not to say FEMA was not using the per capita amount in its considerations, only that the process was not widely known or understood as it presently is. As the DHS IG notes, FEMA could have increased the thresholds gradually beginning in 1986. However, adjusting the per capita amount on an annual basis for inflation did not begin until more than a dozen years later. On the other hand, it should also be considered that when FEMA discussed such proposals (e.g., adjusting per capita figures) with Congress in 1986, Congress passed Section 320 of the Stafford Act that stated:

> No geographic area shall be precluded from receiving assistance under this Act solely by virtue of an arithmetic formula or sliding scale based on income or population.[61]

While it can be argued that FEMA should have been increasing the per capita amount to account for inflation in each succeeding year, it can also be argued that Congress's passage of Section 320 was also expressing its will that such measurements of need would not be the sole determinant for a disaster declaration.

[57] P.L. 93-288, 42 U.S.C. §5122.

[58] Richard T. Sylves, *Disaster Policy and Politics: Emergency Management and Homeland Security* (Washington, DC: CQ Press, 2008), p. 79.

[59] Department of Homeland Security, Office of Inspector General, *Opportunities to Improve FEMA's Public Assistance Preliminary Damage Assessment Process,* pp. 5-7.

[60] For further information on this process, see CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*, by Francis X. McCarthy.

[61] 42 U.S.C. §5163.

The Use of State Capacity Indicators

In 2001, the Government Accountability Office (GAO) issued a report on disaster declaration criteria. This report was a comprehensive review of FEMA's declaration criteria factors. GAO recommended that FEMA "develop more objective and specific criteria to assess the capabilities of state and local governments to respond to a disaster" and "consider replacing the per capita measure of state capacity with a more sensitive measure, such as a state's total taxable resources."

The state's Total Taxable Resources (TTR) was developed by the Department of the Treasury. GAO reported that TTR:

> is a better measure of state funding capacity in that it provides a more comprehensive measure of the resources that are potentially subject to state taxation. For example, TTR includes much of the business income that does not become part of the income flow to state residents, undistributed corporate profits, and rents and interest payments made by businesses to out-of-state stock owners. This more comprehensive indicator of state funding capacity is currently used to target federal aid to low-capacity states under the Substance Abuse and Mental Health Service Administration's block grant programs. In the case of FEMA's Public Assistance program, adjustments for TTR in setting the threshold for a disaster declaration would result in a more realistic estimate of a state's ability to respond to a disaster.[62]

It could be argued that the use of TTR would conflict with the prohibition against arithmetic formulas established by Congress. However, just as FEMA's per capita measurement is one of several factors considered and not the "sole" determinant of a declaration, GAO stated that TTR would not violate Section 320 because TTR could also be used with other criteria such as those identified in regulations. Thus, some could contend that TTR could fill a similar role with perhaps more accuracy. It may also help reduce federal costs for disaster assistance by denying assistance to marginal incidents that could be otherwise handled by the state.

Expert Panels

Some policymakers have suggested using expert panels to help the President make major disaster determinations. For example, S. 1630, the Disaster Recovery Act of 2011would have amended the Stafford Act to authorize the President to declare a catastrophic incident if a recommendation was issued by an independent panel of experts. These experts would be comprised of individuals with specialized knowledge in certain subject areas, such as disasters, economics, and public health. The panel would take into account the severity of the incident as well as other factors that might indicate how well the state could respond to and recover from the incident. The panel would then make recommendations to the President whether the circumstances of the incident were worthy of federal assistance based on their assessment.[63]

---

[62] U.S. General Accounting Office, *Disaster Assistance: Improvement Needed in Disaster Declaration Criteria and Eligibility Assurance Procedures*, GAO-01-837, August 31, 2001, pp. 11-12, available at http://www.gao.gov/assets/240/232622.pdf.

[63] For example, in the 112th Congress, Section 109 of S. 1630 proposed the use of an expert panel to designate a new category of declaration known as a "catastrophic" declaration. In this case, the panel would have determined whether the incident met the threshold of being catastrophic. For further analysis on catastrophic declarations see CRS Report R41884, *Considerations for a Catastrophic Declaration: Issues and Analysis*, by Bruce R. Lindsay and Francis X. McCarthy.

Some might argue that the use of an expert panel would make decisions about whether to provide assistance more objective. Others might argue that the use of a panel may slow down the declaration process and impede the provision of important assets and resources. It may be further argued that the panel's recommendation would infringe on the President's authority to issue a declaration. On the other hand, it could also be argued that the President would retain the authority to issue a declaration despite the panel's recommendation.

Emergency Loans

Another potential method to reduce the number of declarations and the costs of federal disaster assistance would be to create incentives to dissuade states from requesting assistance. One method would be converting some, or all, federal assistance provided through emergency declarations into a loan program. For example, emergency declarations could be altered to provide up to a specified amount (for example, $5 billion dollars) in low interest recovery loans.[64] Under this arrangement a state could elect to handle the incident without federal assistance rather than having to reimburse the federal government for recovery loans.

Another, similar, option would be to expand FEMA's Community Disaster Loan (CDL) program. The core purpose of the CDL program is to provide financial assistance to local governments that are having difficulty providing government services because of a loss in tax or other revenue following a disaster. The program assists local governments by offering federal loans to compensate for this temporary or permanent loss in local revenue. In addition to helping with lost revenue, the CDL program could be used to provide loans to help states and localities repair, rebuild, and recover after a major disaster.

Another loan program already in existence is the Small Business Administration (SBA) Disaster Loan Program.[65] SBA offers low-interest, long-term loans for physical and economic damages to businesses to help repair, rebuild, and recover from economic losses after a declared disaster. However, the majority of the agency's approved disaster loans (approximately 80%) are made to individuals and households (renters and property owners) to help repair and replace homes and personal property. Policymakers could consider expanding the SBA Disaster Loan Program by including recovery loans at low interest rates for states and local governments.

Changes to the Stafford Act

The following section discusses some potential changes to the Stafford Act that might limit the number of declarations being issued each year.

Repeal of Section 320

As mentioned previously, Section 320 of the Stafford Act restricts the use of an arithmetic or sliding scale to provide federal assistance. Repealing Section 320 would allow formulas that establish certain thresholds that states would have to meet to qualify for assistance.

---

[64] Assistance for emergency declarations is capped at $5 billion per incident.

[65] For more information on SBA disaster loans see CRS Report R41309, *The SBA Disaster Loan Program: Overview and Possible Issues for Congress*, by Bruce R. Lindsay.

Section 404

Section 404 of the Stafford Act[66] authorizes the President to contribute up to 75% of the cost of an incident toward mitigation measures that reduce the risk of future damage, loss of life, and suffering. One example of a change that could reduce federal cost is that Section 404 could be amended to make mitigation assistance contingent on state codes being in place prior to an event. For example, states that have met certain mitigation standards could remain eligible for the 75% federal cost share. States that do not meet the standards would be eligible for a smaller share, such as 50% federal cost share. The amendment could incentivize mitigation work on the behalf of the state and possibly help reduce damages to the extent that a request for assistance is not needed, or the cost of the federal share may be lessened. The amendment could be set to take effect in the future (for example, in three years) giving states time to act, or not.

Other Potential Amendments to the Stafford Act

Other amendments to the Stafford Act could either limit the number of declarations being issued, or the amount of assistance provided to the state by the federal government.

- The Stafford Act could be amended so that there could be no administrative adjustment of the cost-share. The cost-share could only be adjusted through congressional action. The amendment could be designed to apply immediately.
- The Stafford Act could be amended so that federal assistance would only be available for states with corollary programs (such as Public Assistance, Individual Assistance, and housing assistance). Establishing these programs at the state level may increase state capacity to handle some incidents without federal assistance. The amendment could be designed to take effect in the future (for example, three years), giving states time to act, or not.
- The Stafford Act could be amended to discontinue all assistance for snow removal unless directed by Congress. The amendment could be designed to take effect in the future (for example, three years) to give states and localities an opportunity to increase snow removal budgets, or not.

Reducing the Amount of Assistance Provided through Declarations

Adjust the State Cost Share

Most discussions regarding state cost-shares in disaster programs and projects involve ways in which the state amount may be reduced and the federal share increased.[67] Some may contend, however, that the opposite approach should be adopted and efforts should be undertaken to reduce disaster costs by shifting the costs to the state and local level. Currently, state and local governments provide 25% of disaster costs on projects and grants to families and individuals with the federal government assuming, at a minimum, 75% of all costs.[68]

[66] 42 U.S.C. §5170c.

[67] For additional discussion on this topic see CRS Report R41101, *FEMA Disaster Cost-Shares: Evolution and Analysis*, by Francis X. McCarthy.

[68] Ibid.

There is no statutory limit on the number of people that can be helped following a disaster.[69] Similarly, when assessing damage to state and local infrastructure there is no cap on the amount of federal funds that can be expended to make the repairs or accomplish a replacement. The only limitation is that the damage must be to eligible facilities and that it is disaster-related damage.

Given that open-ended commitment by the federal government, some may argue that increasing the state share of 25% to a higher percentage would be warranted given the federal government's fiscal condition. Another option would be to make the cost-share arrangement not subject to administrative adjustment.

Disaster Loans

As mentioned previously, the assistance provided for emergency declarations could be provided through the form of loans. Similarly, some or all of the assistance provided to the state after a major disaster could be converted to low-interest or no-interest loans. For example, a state may receive the traditional 75% cost share for an incident but be required to reimburse 25% of that funding to the federal government. Loans for disaster recovery could also be incentivized. For instance, states that undertook certain pre-established preparedness mitigation measures could qualify for a larger federal share or a lower interest rate.

Concluding Observations

Given the variables described in this report that can lead to increased declarations, including trends in severe weather patterns, population growth, and development, the upward trend of declarations will likely continue if declarations policies remain unchanged. Some may contend that the policy mechanisms used to address the increase in declarations should be shaped by its causes. Others may argue that if the causes are due to an increase in severe weather incidents, population growth, or development, then the declaration process should remain unchanged. Alternatively, thresholds for federal assistance could be adjusted to eliminate what are perceived to be marginal incidents and focus federal assistance on large-scale disasters. Another method would be shifting a greater share of the responsibility for providing assistance from the federal government to states and localities.

The approach to reduce declarations might shift somewhat if the increase in declarations and their costs is due primarily to federal policies. If that is the case, it could be argued that methods that constrain the President's discretion to issue declarations, or reforming FEMA policies may be more suitable. If the increase is tied to state policies, then mechanisms such as the use of loans or other incentives could be implemented to help decrease the number of state requests for assistance. Finally, as mentioned throughout this report, a combination of all of the above could be implemented.

At the heart of the declaration phenomenon is the role of the government when a disaster strikes. While it is generally agreed that the government should help disaster victims in time of need, it is unclear whether the fiscal responsibility resides primarily with the federal or the state government. Finding the balance has thus far been elusive, and altering the declaration process

[69] There is however, a limit on how much any one household can receive ($31,400 at the time of this report).

could have important implications for both federal and state officials, as well as disaster victims. Many of the policy options described in this report would shift a greater share of disaster-related costs to states and localities. It remains to be seen if reducing declarations and/or limiting the amount of disaster assistance provided to requesting states would severely disrupt the state's ability to adequately recover from an incident, or if states would be able to adjust to the changes by reallocating available state resources.

Author Contact Information

Bruce R. Lindsay
Analyst in American National Government
blindsay@crs.loc.gov, 7-3752

Francis X. McCarthy
Analyst in Emergency Management Policy
fmccarthy@crs.loc.gov, 7-9533

Acknowledgments

Richard T. Sylves, Ph.D. University of Delaware and the staff of GAO provided input and insight on presidential declarations. Daniel Richardson, Research Assistant, Government and Finance Division, assisted with compiling data for this report. Robert Dilger, Senior Specialist, Government and Finance Division, assisted with editorial comments and suggestions; Amber Wilhelm, Graphics Specialist, Publishing and Editorial Resources Section, assisted with figures in this report; James Uzel, GIS Analyst, Resources, Science and Industry Consulting Section, assisted with NOAA data; William A. Kandel, Analyst in Immigration Policy, Domestic Security and Immigration Section, assisted with demographic information and census data.