

Disaster Recovery, Hazard Mitigation, And the Stafford Act

- The American Public Power Association (APPA) supports H.R. 2836, the FEMA Loan Interest Relief Act, which would require the Federal Emergency Management Agency (FEMA) to pay interest to public power utilities that take out loans to cover costs that are eventually repaid by FEMA.
- APPA supports H.R. 164, the Promoting Opportunities to Widen Electrical Resilience Act of 2024 (POWER Act), which would allow cost-effective hazard mitigation activities as part of power restoration.
- APPA strongly opposes FEMA's rule to allow itself to pause the three-year limit on attempts to "claw back" public assistance payments to public power utilities.

Background

The federal government provides assistance to state and local governments for major disasters or emergencies that disrupt the normal functioning of governments and communities. This public assistance is primarily provided and overseen by FEMA under authorization of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (P.L. 93- 288, as amended). The Stafford Act also authorizes FEMA to assist in planning for disasters and emergencies and for disaster mitigation planning, design, and investments. Categories of assistance that public power utilities generally receive include debris removal, emergency protective measures, and utility restoration and reconstruction. Public power utilities also receive assistance in planning and design for hazard mitigation and in making disaster mitigation investments.

In some instances, FEMA will decide that public assistance was not appropriate after payment has already been made. In those instances, it can seek to recover (or "deobligate") such payments either directly or through an administrative offset of future federal payments. Deobligation can result because FEMA has discovered that the type of project is not appropriate, that the payment was duplicative, or quite often, because the recipient failed to follow the *Federal Acquisitions Regulations*, a 1,917-page document of rules for making purchases with assistance funds. In fact, the Department of Homeland Security's Office of Inspector General has said that if procurement requirements are not followed, FEMA can and should seek deobligation "even if costs were otherwise reasonable, and the grantee or sub-grantee otherwise accomplished the purpose of the grant" (OIG-16-126-D, Sept. 2, 2016).

Current policies also make it challenging to use FEMA public assistance funds for hazard mitigation as part of, or after, disaster strikes. First, hazard mitigation funds must be approved up front by FEMA, and generally, FEMA will not provide such funds for equipment that has already been restored to working order. As a result, a utility is often faced with the untenable choice of waiting for approvals before restoring power.

More recently, President Donald Trump and Department of Homeland Security Secretary Kristi Noem have said that FEMA should be eliminated. In January 2025, President Trump issued an executive order creating the FEMA Review Council, which is co-chaired by Secretary Noem and Defense Secretary Pete Hegseth. In March, the council issued a request for information asking for input on people's experience with FEMA. APPA submitted comments that were generally supportive the role FEMA plays in disaster preparation, response, and recovery (particularly in the provision of public assistance) but also highlighted areas where improvement is needed. In April, then acting FEMA Administrator Cameron Hamilton provided a memo to the White House Office of Management and Budget outlining steps to "rebalance" the federal role in disaster response by shifting operational and financial responsibility to state and local governments. The memo noted several steps President Trump could take unilaterally,

including increasing the damage threshold for a major disaster designation from \$1.89 per capita to \$7.56. Likewise, the memo noted that the president could not authorize hazard mitigation payments along with public and individual assistance in the wake of a major disaster. The memorandum also suggested amending the Stafford Act to reduce federal cost sharing percentages, reduce the types of facilities for which assistance is provided, and streamline federal recovery programs. Such an abrupt shift in policy would be extremely problematic. It ignores the purpose of public assistance—helping communities that are overwhelmed by a disaster. It also would hinder disaster response and recovery; first by causing utilities to reconsider whether to invoke potentially life saving measures that might not be reimbursed, such as invoking mutual aid agreements to have crews pre-stage; and second, it might cause others to reconsider providing mutual aid because they might not be reimbursed. Both would delay disaster response and recovery, putting life and property at needless risk.

Congressional Action

In January 2025, Representatives Val Hoyle (D-OR) and Mike Ezell (R-MS) introduced H.R. 164, the POWER Act. The bill would allow public power utilities to receive FEMA assistance for carrying out “cost-effective hazard mitigation activities” in combination with power restoration activities. It would also allow an electric utility that receives assistance for emergency power restoration to also receive subsequent hazard mitigation assistance for that equipment. The bill was passed by the House by a vote of 419 to 2 on January 16. APPA strongly supports the POWER Act.

In April 2025, Representatives Neal Dunn (R-FL) and Darren Soto (D-FL) introduced H.R. 2836, the FEMA Loan Interest Payment Relief Act to reimburse public power utilities, other local governmental entities, and rural electric cooperatives for interest expenses on loans to cover costs that will eventually be repaid by FEMA. A similar version of the bill was approved by voice vote by the House of Representatives in December 2024.

On May 8, House Transportation & Infrastructure Committee Chairman Sam Graves (R-MO) and Ranking Member Rick Larsen (D-WA) released a “discussion draft” of the Fixing Emergency Management for Americans (FEMA) Act of 2025. The bill would establish FEMA as a cabinet-level agency and streamline the federal government’s disaster response and recovery programs. In particular, public assistance for permanent work would be paid based on project cost estimates, rather than as an after-the-fact reimbursement of expenses. APPA has submitted comments in support of the bill, including that the cost-estimate model also be applied to public assistance for debris removal and emergency response.

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The American Public Power Association is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. We represent public power before the federal government and protect the interests of the more than 55 million people that public power utilities serve and the 100,000 people they employ.