



December 8, 2025

LPPC URGES CONGRESS TO PASS FEMA REFORM

Endorses H.R. 4669, the Fixing Emergency Management for Americans Act

The Large Public Power Council (LPPC) strongly supports efforts to modernize the Federal Emergency Management Agency (FEMA) so that communities can recover faster and at lower cost after disasters. Today, public power utilities often face significant delays and denials caused by administrative complexity, inconsistent application of criteria, and a limited understanding of how electric utilities plan, operate, and restore the grid.

H.R. 4669, the Fixing Emergency Management for Americans Act, is the bipartisan vehicle to deliver these reforms. **LPPC endorses H.R. 4669**, which was approved by the House Transportation and Infrastructure Committee and represents the most meaningful update to federal disaster assistance in decades. H.R. 4669 would:

- Replace FEMA's unpredictable reimbursement system with project-based grants and pre-approved cost estimates that provide timeliness and clarity to local governments and utilities.
- Modernize procurement rules so that utilities can mobilize contractors and specialized equipment quickly while maintaining full compliance with federal standards.
- Expand eligibility for FEMA mitigation programs to support grid hardening and other resilience investments that reduce future disaster costs for customers and taxpayers.

These reforms will help public power utilities restore critical infrastructure more quickly and keep electric rates affordable for the communities they serve in the wake of disasters.

Strengthening Reforms for Public Power

As Congress continues its work on FEMA reform, LPPC urges lawmakers to adopt several targeted improvements.

1. **Make prudent pre-positioning activities clearly eligible for reimbursement.** Authorize reimbursement for public power utilities and electric cooperatives for reasonable pre-event activities such as staging, transporting, and pre-positioning equipment and crews when a forecasted event presents a credible threat. These proactive measures are **essential to rapid grid restoration**, but currently, the Stafford Act and FEMA regulations discourage them because reimbursement is allowed only if the resources are ultimately used for emergency work during a declared disaster.

By the time there is certainty about the path and intensity of a storm, it is often too late to position assets in a way that minimizes outages and speeds restoration. Clarifying eligibility for prudent pre-positioning would support faster recovery and better outcomes for customers and communities.

A recent FEMA arbitration involving Sumter Electric Cooperative (SECO) confirmed that pre-positioning out-of-area crews ahead of a major hurricane is an eligible emergency protective measure, and FEMA was ordered to reimburse those costs. Yet SECO only obtained that outcome after a lengthy, case-specific arbitration, and the decision is not binding precedent for other applicants. Clarifying in statute that prudent pre-positioning costs for forecasted events are eligible for reimbursement would **avoid the need for repeated appeals and arbitrations** and would **provide clear, uniform guidance** for both applicants and FEMA field staff. Our proposed statutory markup to implement this clarification is included in **Appendix A**.

2. **Create a dedicated utility-focused unit within FEMA.** H.R. 4669 already recognizes that complex and inconsistent requirements are a problem by directing the Comptroller General, in Section 404 (Review of Burdensome Regulations and Policies), to identify obsolete, conflicting, and overly burdensome FEMA regulations and recommend reforms. For public power utilities, however, the main challenge is not just the rules on paper, but a persistent lack of utility-specific knowledge among FEMA staff and contractors. Utility-related claims are a relatively small share of FEMA's overall caseload, but they arise in virtually every major disaster. **Utility expertise within FEMA often has to be rebuilt event by event.** A centralized, utility-focused group within FEMA can build and retain that expertise and support field staff wherever disasters occur. Congress should establish a permanent, utility-focused liaison or recovery unit within FEMA to:

- Train FEMA staff on utility operations, mutual aid, and restoration practices.

- Serve as a consistent point of contact for public power utilities and cooperatives, which have different requirements than local governments or other FEMA grantees and provide an essential public service that must be restored first. This role would recognize the vital effort utilities make in disaster recovery and their unique processes and responsibilities.
- Promote more consistent eligibility determinations, documentation requirements, and timelines across regions and reduce the inconsistency in grant criteria that utilities see from region to region.

Today, LPPC member utilities routinely employ specialists and outside experts just to research regional inconsistencies in FEMA application and documentation practices and to help train FEMA staff in the field. The cost of these specialists is often eligible for reimbursement as a project or management expense and therefore a significant portion is charged back to FEMA. **Fixing the underlying issues would save time and money for both grantees and FEMA while improving consistency and predictability.** A dedicated, utility-focused unit would institutionalize this expertise within FEMA, lowering compliance costs while preserving strong accountability.

3. **Recognize “utility standards” alongside building codes in statute.** Congress should clarify in statute that public infrastructure may be rebuilt to either “applicable building codes” or “utility standards” that reflect current utility design and construction practices and incorporate appropriate mitigation for local disaster risks. Specifically, Congress should:

- Define “utility standards” as the current design and construction standards of the owner or operator of a public facility that are informed by applicable industry standards and practices and that incorporate mitigation measures consistent with disaster risks for the relevant geographic area.
- Add references to “utility standards” alongside references to “applicable building codes” where appropriate.

H.R. 4669 already takes an important step by making it easier to rebuild to current codes and standards by allowing, in new Section 409, project-based Public Assistance grants to include hazard mitigation when it is necessary to bring a damaged facility up to applicable building codes and consensus-based standards. That is a real improvement for schools, hospitals, and other public facilities that are designed and permitted under those codes.

Section 305 of the FEMA Act of 2025 also helps by confirming that cost-effective mitigation can be carried out during emergency restoration under Section 403 of the Stafford Act (42 U.S.C. § 5170b) without cutting off future mitigation funding for permanent repairs under Section 406 of the Stafford Act (42 U.S.C. § 5172).¹ However, Section 305 does not resolve the gap utilities face when they seek to use federal funds to rebuild facilities to their current utility standards as part of permanent repairs.²

H.R. 4669 does not solve the problem for electric utilities, which build lines, substations, and other grid facilities to meet *engineering-based utility standards*—not local building codes. As a result, when utilities need to elevate, harden, or otherwise rebuild facilities to their current utility standards after a disaster, they are often forced to pursue separate hazard-mitigation grants instead of including those upgrades in the main Public Assistance project. Those separate mitigation programs (e.g., Section 404) are not covered by Section 409’s improved timelines and add a second approval track, additional reviews, and more uncertainty.

Recognizing “utility standards” in statute and giving them the same treatment as “applicable building codes” would allow necessary mitigation for permanent repairs to be included directly in Section 409 project grants and grant utilities full access to the bill’s expedited timelines and NEPA streamlining, instead of pushing them into slower, parallel mitigation programs. Our proposed statutory markup to implement this clarification is included in the **Appendix B**, with illustrative examples provided in **Appendix C**.

About LPPC

LPPC represents America’s **29 largest public power systems**. Our members own approximately 80,000 megawatts of generation and 40,000 miles of transmission lines

¹ Congress should provide this same treatment in Section 305 for the new Section 409 grants that are intended to replace Section 406 grants under the Stafford Act. Their exclusion may be a drafting oversight.

² In practice, the language in Section 303 is most helpful for relatively modest upgrades that can be made as part of emergency restoration, such as replacing a damaged Class 3 distribution pole with a stronger Class 1 pole during storm response. It does not address more significant scenarios where, for example, a transmission line is knocked down and the temporary emergency fix is to install a makeshift wood structure, while the permanent solution will require full engineering, design, procurement, and construction of a new steel structure consistent with the utility’s current standards.



in 23 states and territories, representing more than 80 percent of public power's generation and transmission assets nationwide.

When disasters strike, whether hurricanes, tornadoes, wildfires, floods, or winter storms, LPPC members are on the front lines, working around the clock to repair critical infrastructure, restore electric service, and protect public safety. As not-for-profit utilities owned by states and local governments, they provide essential services that are central to community response and recovery and rely on timely federal assistance through FEMA's Public Assistance and Hazard Mitigation programs under the Stafford Act.

Making FEMA's processes work more predictably for public power will help customers, communities, and taxpayers while preserving strong accountability for federal funds.

Appendix A: Markup for Pre-Positioning Activities

LPPC proposes the following revisions to H.R. 4669. Section 403 of the Stafford Act authorizes FEMA to provide assistance necessary to address immediate threats to life and property resulting from a major disaster. Under 44 C.F.R. § 206.225(a), FEMA may reimburse emergency protective measures that are essential to reduce or eliminate imminent threats to life, public health, safety, or significant damage to improved property. However, under current FEMA regulations and guidance, costs associated with pre-positioning resources (personnel, equipment, etc.) are generally treated as eligible only if those resources are actually used for emergency work, unless an applicant successfully challenges that interpretation through appeal or arbitration. The main regulatory exceptions today are for pre-positioning resources for evacuation or emergency medical care during the evacuation period, which remain reimbursable even if ultimately unused.

The proposed language will direct FEMA to revise its regulations, policies, and guidance to make federal financial assistance for reasonably incurred pre-positioning costs in response to an emergency declaration by the President **consistent and predictable**. Importantly, these costs would remain eligible for financial assistance even where the pre-positioned resources are not ultimately used or needed to respond to the emergency due to a change in its location, duration, or intensity.

Proposed Text

(a) SENSE OF CONGRESS.—It is the sense of Congress that the pre-positioning of personnel, equipment, and supplies facilitates timely and effective responses to emergencies and mitigates threats to life, public health, safety, and property. Federal financial assistance should be available for costs associated with the reasonable pre-positioning of personnel, equipment, and supplies in response to an emergency declaration by the President. Further, it is the sense of Congress that the nature of an emergency may change following an emergency declaration by the President, such that certain pre-positioned resources may no longer be needed to respond to the emergency. Nevertheless, reasonable and prudently incurred costs associated with such pre-positioning of resources should remain eligible for federal funding, even where such resources are not ultimately used to respond to the emergency due to a change in the nature, duration, or location of the emergency.

(b) PRE-POSITIONING.—

(1) Section 403 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b) is amended by inserting after subsection 403(a)(3)(J) the following: “(K) reasonable pre-positioning of personnel³, equipment, and supplies in response to an emergency declaration by the President.”

(2) The Administrator of the Federal Emergency Management Agency shall revise section 206 of title 44, Code of Federal Regulations, including subpart H, to include reasonable pre-positioning of personnel, equipment, and supplies for the anticipated performance of eligible emergency work in response to an emergency declaration by the President among the types of work and costs eligible for federal financial assistance under section 206 of title 44, Code of Federal Regulations.

(3) Reasonably incurred costs associated with such pre-positioning shall remain eligible for federal financial assistance, including but not limited to cost reimbursement, even where the pre-positioned personnel, equipment, and supplies are not ultimately used in or required for the performance of eligible emergency work or protective measures due to a change in the nature, duration, or location of the emergency.

(d) REVISIONS TO GUIDANCE, POLICIES, AND REGULATIONS.—The Administrator of the Federal Emergency Management Agency shall rescind or revise any guidance, policies, or regulations in effect on the date of enactment of this Act as necessary to implement the amendments and revisions required by subsection (b).

³ FEMA uses a term of art to describe personnel for these circumstances: “force account labor.”

Appendix B: Markup for Building Codes and Utility Standards

LPPC proposes the following revisions to H.R. 4669.

Proposed Text

SEC. 101. REBUILDING PUBLIC INFRASTRUCTURE.

...

“(11) Definitions.—In this subsection:

“(A) APPLICABLE BUILDING CODES.—...

...

“(C) UTILITY STANDARDS.—The term ‘utility standards’ means the current design and construction standards of the owner or operator of a public facility damaged or destroyed by a major disaster that are informed by applicable industry standards and practices and that incorporate mitigation measures consistent with disaster risks for the geographical area in which the relevant public facilities will be located.

...

“(b) GRANT REQUIREMENTS.—

(1) USE OF GRANT FUNDS.—Grant funds made ~~to a State, local government, or a person that owns or operates a private nonprofit facility~~ under this section may be used—

(A) to repair, restore, reconstruct, or replace the public or private nonprofit facility damaged or destroyed by a major disaster to applicable building codes **and utility standards** as of the time of repair, restoration, reconstruction, or replacement, including incorporating mitigation measures consistent with disaster risks for the geographical area.

...

(2) COST ESTIMATION.

(A) Amount of Grants.—The amount of a grant made available pursuant to subsection (a) shall be determined, without regard to preexisting condition, based on the estimated cost to repair, restore, reconstruct, or replace the public or private nonprofit facility damaged or destroyed by a major disaster to applicable building codes **and utility standards** as of the time of repair, restoration, reconstruction, or replacement. Such cost estimate shall—

- (i) be developed by an appropriately licensed professional;
- (ii) include the cost of incorporating mitigation measures consistent with disaster risks for the geographical area;
- (iii) include associated expenses including labor costs, management costs, materials, and any other costs to repair, restore, reconstruct, or replace the impacted facility; and
- (iv) include the cost of carrying out such estimate.

...

(B) Conflicting Standards.—In any case in which a building code or mitigation standard, **utility standard** is in conflict across Federal agencies of a combined funding project described in subparagraph (A), any codes or standards promulgated by the President, through the Administrator, pursuant to this Act shall be applied.

...

SEC. 104. FEDERAL PERMITTING IMPROVEMENT.

...

(b) EXEMPTIONS AND EXPEDITED PROCEDURES.

(1) Protection of Environment.—An action which has the effect of repairing, restoring, reconstructing, or replacing a facility in the same location to applicable building codes **and utility standards** at the time of repair, restoration, construction, or replacement shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to other Federal actions taken under this Act or under any other provisions of law.

Appendix C: Utility Examples for Building Codes and Utility Standards

FEMA applicants often face “like-for-like” constraints and uneven field-level interpretation of “consensus-based codes and standards.” Because of **FEMA’s like-for-like policy**, many public power utilities do not attempt to rebuild or replace facilities to modern utility standards within their base Public Assistance (PA) project. Instead, they submit separate hazard-mitigation proposals (for example, as Section 406 mitigation tied to PA projects or under the Section 404 Hazard Mitigation Grant Program), which introduces additional review, cost-effectiveness tests, and significant delays. As the examples below show, similar upgrades – including replacing wood poles with steel – are sometimes approved as eligible “codes and standards” work for one utility, while another must pursue the same upgrade through a separate mitigation grant.

Under H.R. 4669, this problem could simply change shape. New Section 409 allows project-based PA grants to include hazard mitigation where it is necessary to rebuild to applicable building codes and consensus-based standards, **which works well for facilities that are designed and permitted under traditional building codes but not for electric utilities, which do not build lines, substations, and other grid facilities to local building codes.** When a utility’s modern design is treated as “betterment” rather than an “applicable code or standard,” as is often the case today, the utility can be forced to seek one Section 409 grant for like-for-like rebuilding and a separate hazard-mitigation grant just to elevate, harden, or otherwise rebuild the facility to a modern, utility-standard design. **That two-track process delays permanent rebuilding and increases uncertainty.**

The examples below reflect common patterns:

- Like-for-like rules generally **limit upgrades** to what was originally built, even where those facilities have already failed in a disaster and no longer reflect modern design criteria or current utility standards.
- Utilities often must seek Public Assistance for like-for-like repair or replacement under Section 406 (and, going forward, Section 409) and then submit hazard-mitigation proposals under Section 404 or as 406 mitigation tied to those projects, but those proposals typically **delay permanent rebuilding** while they are prepared, negotiated, and evaluated.
- For similar types of projects, **outcomes are inconsistent** across regions; some upgrades are approved as “codes and standards” while others are rejected or

forced into mitigation, because field teams interpret “consensus-based codes and standards” differently, and because benefit-cost analyses in the mitigation track are run by FEMA modelers with inconsistent inputs and limited opportunity for utility feedback on assumptions, even when the upgrades simply reflect the utility’s current engineering standards.

Reasonable resiliency upgrades required to meet current utility standards provide essential protection against future damage and should be included in the base rebuilding project, not forced into a separate hazard-mitigation grant process. Clarifying that current utility standards can be used alongside “applicable building codes” would eliminate the need for a separate mitigation grant in these cases and better reflect Congress’s intent to rebuild to modern standards without unnecessary delay. Treating these upgrades as part of base rebuilding would also be consistent with how H.R. 4669 already addresses other projects rebuilt to “applicable building codes and standards;” the gap in the bill is that this treatment does not extend to utility infrastructure built to utility standards. The table below illustrates these patterns with concise, common examples from LPPC members.

Specific Examples of Repairing/Replacing Like-For-Like vs. Rebuilding to Specifications Consistent with Current Utility Standards	
Utility	Example
Utility 1	FEMA approved an upgrade to taller utility poles rather than like-for-like replacement under “consensus-based codes and standards.” Treating the upgrade as codes/standards was much faster than pursuing the same change through a separate Section 406 hazard-mitigation proposal. This is the type of outcome utilities are seeking for similar cases.
Utility 2	Based on prior experience with FEMA’s like-for-like replacement policy, Utility 2 does not apply to build back to current standards in its Section 406 projects, but instead seeks separate mitigation funding under Section 404’s Hazard Mitigation Grant Program. This has substantially delayed rebuilding. For one set of projects, the approval process alone delayed the rebuilding of a dozen flooded substations by more than a year . FEMA ultimately approved elevating the substations under a hazard-mitigation grant, but the delay would have been unnecessary if rebuilding to current standards had been allowed in the base project. No utility would rebuild a substation that flooded at the same elevation it was originally built at.

Utility 3	Utility 3 would build a transmission line today using steel poles for resiliency; however, due to FEMA's like-for-like replacement policy, FEMA would only pay for replacing a damaged line that was originally in wood with wood. The Utility needed to either accept a less-resilient design than its current standards or seek a separate mitigation funding grant.
Utility 4	Utility 4 has found that FEMA generally only replaces like-for-like under a Section 406 PA grant. When the utility's current standards would call for a higher standard today than the damaged facility, the utility applies for a separate mitigation grant. In some cases, those requests are denied because FEMA's benefit-cost analysis, performed by FEMA modelers with limited opportunity for input, finds the upgrade not cost-effective, even though the alternative is rebuilding to an older standard the utility would no longer choose to build with its own funds. In other cases, such as replacing wood poles with steel, FEMA has approved the upgrade. This means FEMA is second-guessing risk-informed upgrades that simply bring facilities up to the utility's current engineering standards. If a utility is rebuilding to a standard it already uses across its system, those standards should be presumptively accepted rather than re-litigated project by project, just as H.R. 4669 contemplates for building codes and consensus-based standards. The result today is case-by-case, inconsistent treatment of similar improvements.
Utility 5	Utility 5 has had pole replacements questioned and then approved after explaining that the upgraded poles are required under modern codes and standards. Separately, the same utility has applied for mitigation funding several times and has been denied, reinforcing the pattern that building to current utility standards is uncertain.