

## **9523.14 Debris Removal from Private Property to Address Immediate Threats Debris Removal from Private Property to Address Immediate Threats**

Date Signed: October 23, 2005

Recovery Division Policy Number: 9523.14 Title: Debris Removal from Private Property to Address Immediate Threats

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Purpose: This revised policy is being issued to include the areas devastated by Hurricane Rita under this guidance and provide guidance on debris removal from commercial private property. This policy provides guidance on the appropriate use of funding as provided for in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, for immediate threats relating to debris removal and disposal, including demolition of unsafe structures, when necessary (hereafter referred to as “debris removal”) from private property in areas where Hurricanes Katrina and Rita caused catastrophic damage. This policy applies only to Section 403 debris removal funding in the states of Alabama, Louisiana, Mississippi and Texas.

Scope and Audience: This policy applies only to catastrophically damaged areas in the states of Alabama, Louisiana, Mississippi and Texas under FEMA-1605-DR-AL, FEMA-1603-DR-LA, FEMA-1607-DR-LA, FEMA-1604-DR-MS, and FEMA-1606-DR-TX, respectively. It is intended to guide all personnel responsible for the administration of the FEMA Public Assistance grant program.

Background:

Section 403 of the Stafford Act, 42 U.S.C. 5170b, permits FEMA to fund debris removal from private property to (1) eliminate immediate threats to life, public health, and safety; or (2) eliminate immediate threats of significant damage to improved public or private property.

The regulations implementing Section 403 of the Stafford Act at 44 CFR § 206.224 establish the requirement that debris removal be in the “public interest” in order to be eligible for reimbursement. “Public interest” is defined as being necessary to: eliminate immediate threats to life, public health, and safety; or eliminate immediate threats of significant damage to improved property

Policy: The following guidance for reimbursement of state, county and municipal governments for costs incurred in debris removal from private property applies to major disaster declarations FEMA-1603-DR-LA, FEMA-1604-DR-MS, FEMA-1605-DR-AL, FEMA-1606-DR-TX and FEMA-1607-DR-LA.

FEMA will work with each State to designate those areas (not already designated pursuant to Disaster Specific Guidance #3 dated September 10, 2005 and Disaster Specific Guidance #6 dated October 26, 2005) where the debris is so widespread that removal of the debris from private property is in the “public interest” under 44 CFR § 206.224 and thus, eligible for FEMA reimbursement.

Any government entity that intends to remove debris from private property to address immediate threats must, prior to commencement of work, submit a written request to the Federal Coordinating Officer (FCO) seeking approval for reimbursement. The written request and any accompanying attachments must identify the properties or area in which the removal will occur. In addition, the government entity must determine that debris

removal is necessary to address an immediate threat to life, public health, safety or property.

When evaluating requests for debris removal from commercial private property, the guidance in Recovery Policy No. 9523.13, dated October 23, 2005, Section 7.D. should be followed.

State and local governments must assist the federal government to prevent the duplication of benefits. The state and local government must assist the federal government in determining whether insurance coverage exists for the debris removal accomplished on each piece of private property. If it is discovered that the duplication of benefits exists, the state or local government must assist the federal government to recover such proceeds paid to the property owners. If the state or local government recovers such funds, the state or local government must remit them to FEMA in a timely manner.

Pursuant to the FEMA-State Agreement, if debris removal is authorized, the State agrees to indemnify and hold harmless the United States of America for any claims arising from the removal or debris or wreckage for this disaster.

Supersession: This policy replaces Recovery Policy Number 9523.14, dated September 15, 2005

Authorities: Section 403 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended.

Originating Office: Public Assistance Branch, Recovery Division, FEMA, U.S. Department of Homeland Security.

Signature:

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David Garratt

Acting Director of Recovery

Federal Emergency Management Agency

Distribution: Regional Directors, and Joint Field Offices in Alabama, Florida, Louisiana, Mississippi and Texas.