



FEMA



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## 9523.4 Demolition of Private and Public Facilities

1. **Date Published:** November 9, 1999
2. **Response and Recovery Policy Number:** 9523.4
3. **Title:** Demolition of Private and Public Facilities
4. **Purpose:** This policy provides guidance in determining the eligibility of structures for demolition under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288 as amended (Stafford Act).
5. **Scope and Audience:** This policy is intended to guide Federal Emergency Management Agency (FEMA) personnel responsible in making eligibility determinations for the Public Assistance grant program. The provisions of this policy relating specifically to Section 404 Hazard Mitigation buyouts and relocations are a formalization, continuation and refinement of the concept contained in the 1995 policy memorandum referenced in Paragraph 9. The other provisions of this policy are unchanged from the Interim policy issued on September 14, 1999.
6. **Background:** This policy applies to the exercise of authorities for emergency work and permanent recovery. Recent disasters highlighted the lack of common understanding of the appropriate application of the authorities of Sections 403 and 407 of the Stafford Act. This policy supersedes Interim Policy #9523.4 issued on September 13, 1999 and incorporates provisions for the application of emergency authorities to Section 404 Hazard Mitigation buyout and relocation projects.

FEMA sometimes is requested to pay for the demolition of public and private structures in the aftermath of declared disasters. The most frequent use of demolition authority is to use Section 403 of the Stafford Act to fund the demolition of unsafe structures that endanger the public. Section 406 of the law, which funds the permanent repair of eligible structures, also has been used to fund demolition when demolition has been part of funding of a FEMA-approved Section 406 project. Section 407 of the law may be used to clear debris and wreckage resulting from a major disaster when it is determined to be in the public interest.

### 7. Policy:

- A. *Insurance.* When demolition is covered by an insurance policy, the insurance proceeds must be used as the first source of funding.
- B. *Special Considerations.* Historic and environmental requirements must be addressed unless otherwise exempted. The following provides general guidance.

Stafford Act Reference	National Environmental Policy Act	Other Federal Laws (National Historical Preservation Act, Endangered Species, Clean Water Act), Regulations, EO's
Section 403 and 407	Not required (statutorily excluded; see Section 316 of the Stafford Act)	Required (some laws have special procedures in emergency circumstances)

Section 406	Depends on Associated Eligible Action <ol style="list-style-type: none"> <li>a. Not required with repair substantially to pre-disaster condition project. Statutorily excluded; see Section 316 of the Stafford Act.</li> <li>b. Required when determined as independent from a repair to pre-disaster condition project.</li> <li>c. Required with improved or alternate projects.</li> </ol>	Required
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C. Basic Eligibility for Demolition. In order to be eligible for demolition and debris removal, an eligible applicant must incur an eligible expense. Upon meeting the above requirements, Public Assistance Program funds may be used for demolition and debris removal.

1. Section 403 Funding.

1. Publicly-owned and eligible Private Nonprofit (PNP) structures. Demolition and removal of debris is eligible for publicly-owned structures and the eligible structures of eligible PNP organizations when:

- the structures were damaged by the disaster, and
- the structures are determined to be unsafe and pose an immediate danger to the public, and
- the work is completed within the completion deadlines outlined in 44CFR 206.204 for emergency work.

2. Privately-owned damaged structures.

- Privately-owned damaged structures may be eligible for Public Assistance grant funding for demolition (and the removal of debris from the demolition) if they meet the criteria in the three bullets contained in Paragraph 7.C.1.a. and liability and legal permission requirements are met.
- Generally, the removal of the debris from private property is not an eligible cost unless the disaster caused very severe and widespread damage and the removal of the debris is necessary: to eliminate an immediate threat to life, public health and safety; to eliminate immediate threats of significant damage to improved public or private property; or to ensure the economic recovery of the affected community to the benefit of the community-at-large.
- Except in very unusual circumstances, such as erosion under slabs on a hillside, slabs or foundations do not constitute debris or wreckage, nor do they present a health or safety hazard to the general public. Broken slabs, or slabs incapable of supporting a new structure, typically do not constitute a public health or safety hazard. Slabs removed primarily for reconstruction purposes are not eligible for removal as disaster-related debris.
- Individuals and private organizations (except for eligible PNPs with documentation of their efforts on property for which they are responsible) will not be reimbursed for their efforts on their own properties.

3. Debris removal using the economic recovery criterion normally is restricted to the removal of disaster-related debris from large commercial areas to expedite restoration of the economic viability of the affected community.

4. To address current health and safety requirements, the following building demolition costs are eligible: capping wells, pumping and capping septic tanks, and filling in basements and swimming pools. The removal or covering of pads and driveways is not considered part of the emergency demolition of structures.

5. Structures condemned as safety hazards before the disaster are not eligible for

- demolition and resulting debris removal under Public Assistance grant authority.
6. Habitable (but not yet damaged) structures are not eligible for demolition under Public Assistance grant authority even when they are in serious danger of total destruction (e.g., on a failing slope).
  7. Section 407 Funding.
    1. This authority may be used to fund removal of debris and wreckage caused by a major disaster when the Director, FEMA, determines that the removal would be in the public interest.
    2. Generally, the removal of debris is in the public interest only when it is necessary to:
      - eliminate immediate threats to life, public health, and safety, or
      - eliminate immediate threats of significant damage to improved public or private property, or
      - ensure economic recovery of the affected community to the benefit of the community at large. The use of this criterion normally is restricted to the removal of disaster-related debris from large commercial areas to expedite restoration of the economic viability of the affected community.
    3. Structures may not be demolished using this authority unless the structures can be defined as debris or wreckage caused by the major disaster. The following criteria also apply:
      - the structures were damaged by the disaster, and
      - the structures are determined to be unsafe and pose an immediate danger to the public (or the Regional Director otherwise determines that their removal is clearly in the public interest), and
      - the structures have been uninhabited since the major disaster.
    4. While timely action is required, the timeline for emergency work does not govern the use of this authority.
    5. Structures condemned as safety hazards before the disaster are not eligible for demolition and resulting debris removal under Public Assistance grant authority.
    6. Except in very unusual circumstances, such as erosion under slabs on a hillside, slabs or foundations do not constitute debris or wreckage, nor do they present a health or safety hazard to the general public. Broken slabs, or slabs incapable of supporting a new structure, typically do not constitute a public health or safety hazard. Slabs removed primarily for reconstruction purposes are not eligible for removal as disaster-related debris.
    7. The removal of substantially damaged structures and the removal of slabs, driveways, fencing, garages, sheds and similar appurtenances are eligible costs when the property is part of a Section 404 Hazard Mitigation buyout and relocation project. In each case, the principle structure must have been substantially damaged by the disaster, as determined by the local building official.
  8. Section 406 Funding of Permanent Work.
    1. Demolition of a structure and removal of debris may be funded when demolition is required:
      - as part of a Public Assistance program repair, replacement, or construction project,
      - as part of a relocation required by the FEMA Regional Director under 44 CFR 206.226(e)(2), or

- as part of an approved relocation cost when a Public Assistance program structure is being moved out of the 100 year floodplain.
  - 2. Demolition also may be funded when it is part or all of an approved alternate project for the welfare of the general public.
- D. **Supersession:** This policy replaces RR #9523.4, *Interim Policy on Demolition of Private and Public Facilities, issued September 14, 1999.*
- E. **Reference:** Memorandum dated March 30, 1995, "*Demolition of Flood Damaged Structures Under Section 403 of the Stafford Act,*" from Richard W. Krimm, Associate Director, Response and Recovery Directorate, to Richard T. Moore, Associate Director for Mitigation.
- F. **Authorities:** Stafford Act, Sections 403, 406 and 407; 44 CFR 206.
- G. **Originating Office:** Infrastructure Division, Response and Recovery Directorate.
- H. **Review Date:** Two years from date of publication
- I. **Signature:**

*signed*

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- J. **Distribution:** Regional Directors, Regional and Headquarters R&R Division Directors