




FEMA

MAR 25 2008

MEMORANDUM FOR: FEMA Regional Administrators
Regions I - X

ATTENTION: Disaster Assistance Division Directors

FROM: Carlos J. Castillo 
Assistant Administrator
Disaster Assistance Directorate

SUBJECT: Disaster Assistance Policy DAP9525.8
Damage to Applicant-Owned Equipment Performing Emergency Work

The purpose of this memorandum is to request comments from your Regional staff on the attached draft Disaster Assistance Policy DAP9525.8, *Damage to Applicant-Owned Equipment Performing Emergency Work*. This is an existing policy that is scheduled for review to ensure that Disaster Assistance Directorate policies are consistent with current laws and regulations. This policy provides guidance in determining the eligibility of damage and extraordinary maintenance to applicant-owned equipment performing emergency work under severe conditions.

Please provide any comments you may have **within 30 days of the date of this memorandum** to Byron Mason, Public Assistance Branch, via email at Byron.Mason@dhs.gov, or facsimile at (202) 646-3304.

If you have questions, please call Byron Mason at (202) 646-4368.

Attachment



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DISASTER ASSISTANCE POLICY

I. TITLE: Damage to Applicant-Owned Equipment Performing Emergency Work

II. DATE:

III. PURPOSE:

This policy is to provide guidance in determining the eligibility of damage and extraordinary maintenance to applicant-owned equipment used to perform emergency work under severe conditions.

IV. SCOPE AND AUDIENCE:

This policy is applicable to all major disasters and emergencies declared on or after the publication date of this policy. This policy is intended for Federal Emergency Management Agency (FEMA) personnel in making eligibility determinations for the Public Assistance Program.

V. AUTHORITY:

Section 403(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5170b, Title 44 of the Code of Federal Regulations (CFR) §206.223(a)(1), 206.225 and 206.228(a)(1).

VI. BACKGROUND:

The FEMA Schedule of Equipment Rates, which provides rates for applicant-owned equipment, includes parts and labor for normal maintenance and periodic equipment overhaul. It is expected that these rates would cover most damage to equipment used under emergency conditions. However, there are circumstances when equipment is used during an emergency in severe conditions (such as high water or very rough terrain) and damage occurs to the equipment or extraordinary maintenance is required during and/or after the emergency work. When such damages cannot be reasonably avoided, funding may be eligible.

Applicant-owned equipment that is damaged as a direct result of a disaster may be eligible for repair or restoration in accordance with 44 CFR §206.226(h). This is not addressed in this policy.



FEMA

DISASTER ASSISTANCE POLICY

VII. POLICY:

A. Equipment that is damaged or requires maintenance due to routine use under normal working conditions for which it was designed is not eligible for any costs other than those designated in the FEMA Schedule of Equipment Rates or other FEMA-approved rates.

B. Damage determined to be reasonably avoidable is not eligible.

C. Extraordinary expenses for repairs and maintenance for equipment operating under severe conditions in disaster operations may be eligible for reimbursement. The following criteria will be used by FEMA to determine eligibility:

1. Damage to equipment must be disaster-related and not included in the FEMA Schedule of Equipment Rates or other FEMA-approved rates;

2. Equipment was operated in severe conditions (e.g., operation in high water, deep sand, fire, very rough terrain, salt water, severe snowfall, or in environments with widespread and massive amounts of wind-generated debris) during emergency operations in situations for which the equipment was not designed. Extraordinary costs from these causes may warrant additional disaster funding;

3. FEMA funding will be limited to the costs of repairs less insurance proceeds, to avoid duplication of benefits, as prohibited in Section 312(a) of the Stafford Act; and

4. Repairs to equipment in excess of \$5,000 shall require the Applicant to obtain insurance to protect against future loss, in compliance with Section 311(b).

D. Eligible Costs. Examples of items that could be eligible during or after operations in severe conditions include:

1. Damage caused by hitting submerged objects.

2. Damage that is caused by the disaster as a result of accomplishing emergency work, such as equipment that gets washed away when working on a breached levee or dam.

3. Cleaning of moving parts to remove foreign material that would cause damage in the equipment.



FEMA

DISASTER ASSISTANCE POLICY

4. Fluid changes for equipment when high water operation was required.
5. Repairing or replacing tires and repairing undercarriage damage after operating in severe debris conditions when the damaged equipment is not designed to work in those environments.
6. Damage to equipment from civil unrest or terrorist activity occurring during disasters or emergencies declared by the President for reasons of civil unrest or terrorist activity.
7. Replacement of fire hoses that were used to pump raw sewage or other contaminated liquids when the cleaning of the hoses was not possible.
8. Damage due to traffic accidents that was caused by conditions resulting from the declared event while performing eligible emergency work.

E. Ineligible Costs. Equipment damaged or destroyed during use for other than its intended design and function is ineligible unless it was the only equipment available to save lives or protect property from imminent threat of harm.

Examples of specific costs that are not eligible for reimbursement include:

1. Corrosion,
2. Changing of fluids, except when required by other eligible damage or as provided in VII.D.4.
3. Damage to equipment that was not related to performing eligible work, e.g., damage as the result of operator error or vandalism.

F. Repetitive Damage. Generally, applicants operating in a high-risk environment who have failed to maintain their equipment for that environment will not be eligible for maintenance costs that would have been avoidable under a more rigorous maintenance program.



FEMA

DISASTER ASSISTANCE POLICY

VIII. RESPONSIBLE OFFICE: Disaster Assistance Directorate (Public Assistance Division).

IX. SUPERSESSION: This policy supersedes Response and Recovery Policy 9525.8 dated August 17, 1999 and any other relevant provisions of previous policy documents.

X. REVIEW DATE: This policy does not automatically expire, but will be reviewed 3 years from the date of publication.

Carlos J. Castillo
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Disaster Assistance Directorate

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