

109TH CONGRESS }
2d Session

SENATE

{ REPORT
109-320

DEBRIS REMOVAL ACT OF 2005

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

TO ACCOMPANY

S. 939

TO EXPEDITE PAYMENTS OF CERTAIN FEDERAL EMERGENCY ASSISTANCE AUTHORIZED PURSUANT TO THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT, TO AUTHORIZE THE REIMBURSEMENT UNDER THAT ACT OF CERTAIN EXPENDITURES, AND FOR OTHER PURPOSES



AUGUST 30, 2006.—Ordered to be printed

Filed under authority of the order of the Senate of August 4 (legislative day, August 3), 2006

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COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

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Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 939]

The Committee on Homeland Security and Governmental Affairs, to whom was referred the bill (S. 939) to expedite payments of certain Federal emergency assistance authorized pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, to authorize the reimbursement under that Act of certain expenditures, and for other purposes, having considered the same reports favorably thereon as amended and recommends that the bill as amended do pass.

I. PURPOSE AND SUMMARY

The purpose of S. 939 is to expedite payment of Stafford Act emergency assistance for debris removal, and ensure that Stafford Act assistance may include reimbursement for clearing, removing, and disposing of debris from any emergency access road and reimbursement to individuals for debris removal if it is necessary for safe and sanitary living conditions.

II. BACKGROUND

DEBRIS REMOVAL AFTER A DISASTER

Debris removal is one of the largest and most challenging aspects of disaster recovery. Disaster debris is a reminder of the scope of a disaster, and can account for as much as 40 percent of all dis-

aster-related costs for some hurricanes.¹ Proper management and removal of this disaster debris is critical to protect public health and safety, restore the environment, and allow recovery and rebuilding efforts to begin in affected areas.

Disaster debris from hurricanes and floods can include an enormous variety of materials. Among the major components are construction materials, damaged or destroyed buildings, sediments, trees, limbs, shrubs, household appliances, personal property, and vehicles. This debris must be collected, separated by types of materials and into nonhazardous and hazardous debris. Hazardous debris often includes containers of pesticides, drain cleaners, cleaning supplies, and paint; asbestos-coated pipes; and surfaces coated with lead-based paint. Separation of hazardous from nonhazardous materials is necessary to prevent improper disposal, which can release hazardous substances to the environment. However, hazardous and nonhazardous materials often are commingled, making separation difficult or impossible. Finally, there is an overlapping category of wastes consisting largely of, or heavily contaminated by, oil or other hazardous substances.

THE FEDERAL ROLE

State and local governments have primary responsibility for waste management. When these governments are overwhelmed in the wake of a disaster, the Stafford Act authorizes debris removal by federal agencies from publicly and privately owned lands and water. Debris management falls under Emergency Support Function #3, Public Works and Engineering, which is coordinated under the National Response Plan by the U.S. Army Corps of Engineers.

The Corps is tasked with managing, monitoring, and providing technical assistance in the clearance, removal, and disposal of debris and the clearing of ground and water routes into the affected areas. The physical work generally is done by contractors, to the extent that it cannot be accomplished by local government sanitation workers. The Federal Emergency Management Agency (FEMA) reimburses local governments for debris removal on public and private property in counties that are eligible for assistance.

NEED FOR THE LEGISLATION

Hurricanes Charley, Frances, Ivan, and Jeanne hit Florida during the 2004 hurricane season. In the recovery from those disasters, various Florida counties reported widely varying levels of responsiveness and cooperation from FEMA with respect to reimbursement of debris removal costs. In many cases, reimbursement decisions were delayed for months, some were denied without recourse for affected counties, and millions of dollars in claims remained outstanding one year after the hurricanes struck. A survey conducted by the Florida Association of Counties found that a number of counties were forced to use up their savings, issue new bonds, take out loans, raise taxes or take other actions to cope with the delayed reimbursements.

S. 939 aims to prevent a recurrence of the most severe of these problems by requiring FEMA to pay 50 percent of the federal as-

¹ "Disaster Debris Planning," materials presented by FEMA at EPA's August 2003 "RCRA National Meeting," see [<http://www.epa.gov/epaoswer/osw/meeting/pdf02/ward.pdf>].

sistance to an eligible applicant within 60 days. In addition, the bill clarifies that FEMA can reimburse localities for clearing all emergency access roads whether on public or private property. FEMA can now reimburse state and local governments for debris removal “[w]hen it is in the public interest.”² S. 939 establishes that the clearance of access roads on private property that are needed by emergency personnel is in the public interest. This eliminates a recurring point of conflict between FEMA and local government applicants for debris removal assistance that has played a significant role in some of the delayed payments.

III. LEGISLATIVE HISTORY

S. 939 was introduced on April 28, 2005, and was referred to the Committee on Homeland Security and Governmental Affairs. The legislation is sponsored by Senators Martinez, Nelson (FL), and Vitter. On September 22, 2005, the Committee considered S. 939 and ordered the bill favorably reported with an amendment in the nature of a substitute by voice vote. Members present were Senators Collins, Voinovich, Coleman, Chafee, Lieberman, Levin, Akaka, Lautenberg, and Pryor.

IV. SECTION-BY-SECTION

Section 1. Short title

Section 1 sets the short title of S. 939 as the “Debris Removal Act of 2005.”

Section 2. Expedited payments

Subsection (a) directs the Secretary of Homeland Security, acting through the Director of FEMA, to make expedited reimbursement payments to eligible applicants for eligible claims under section 407 of the Stafford Act (42 U.S.C. § 5173). These expedited payments are 50 percent of the total amount the applicant is eligible to receive under the Stafford Act

Subsection (b) establishes that the date of an expedited payment described in subsection (a) shall be paid not later than 60 days after the date of the application.

Section 3. Debris clearance, removal, and disposal from emergency access roads

Subsection (a) defines “emergency access road” as a road that requires access by emergency personnel—including firefighters, police, emergency medical personnel, and any other entity identified by the Secretary of Homeland Defense—in order to provide emergency service after the declaration of an emergency or major disaster

Subsection (b) authorizes reimbursement under section 407 of the Stafford Act (42 U.S.C. § 5173) for clearing, removing, and disposing of debris from any emergency access road.

² 44 CFR § 206.224.

Section 4. Inclusion of debris removal as eligible claim for Federal assistance

Section 4 amends section 408(c)(2)(A) of the Stafford Act (42 U.S.C. § 5174(c)(2)(A)) to make individuals and households eligible for federal assistance to reimburse debris removal. Federal assistance can be extended at the President's discretion in the case of a major disaster for debris removal from owner-occupied residential property, utilities, and residential infrastructure as necessary for a safe and sanitary living or functioning condition.

Section 5. Applicability; termination of authority

Section 5 applies this Act to each major disaster declared under Section 401 of the Stafford Act (42 U.S.C. § 5170) in 2005, and terminates this Act one year after its enactment.

V. EVALUATION OF REGULATORY IMPACT

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the "regulatory impact which would be incurred in carrying out this bill." Carrying out S. 939 would have no regulatory impact.

VI. CHANGES TO EXISTING LAW

Pursuant to Paragraph 12, rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law, in which no change is proposed, is shown in roman):

**TITLE 42, UNITED STATES CODE: PUBLIC
HEALTH AND WELFARE**

CHAPTER 68—DISASTER RELIEF

Subchapter IV—Major Disaster Assistance Programs

SEC. 5174. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

* * * * *

(c) TYPES OF HOUSING ASSISTANCE.—

* * * * *

(2) REPAIRS.—

(A) IN GENERAL.—The President may provide financial assistance for—

- (i) the repair of owner-occupied private residences, utilities, and residential infrastructure (such as a private access route) damaged by a major disaster to a safe and sanitary living or functioning condition; [and]
- (ii) eligible hazard mitigation measures that reduce the likelihood of future damage to such residences, utilities, or infrastructure[.]; *and*
- (iii) *the removal of debris and wreckage resulting from a major disaster from owner-occupied private residential property, utilities, and residential infrastruc-*

ture (such as a private access route) as necessary for a safe and sanitary living or functioning condition.

VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

OCTOBER 28, 2005.

Hon. SUSAN M. COLLINS,
*Chairman, Committee on Homeland Security and Government,
U.S. Senate, Washington, DC.*

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 939, the Debris Removal Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Milberg.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

S. 939—Debris Removal Act of 2005

Under current law, the Federal Emergency Management Agency (FEMA) reimburses state and local governments, and owners or operators of nonprofit organizations for costs associated with removing debris that results from a major disaster. S. 939 would require FEMA to pay half of the Federal Government's share of such costs within 60 days of an applicant's request for reimbursement. S. 939 also authorizes FEMA to pay costs associated with removing debris from emergency access roads and private property.

Under current law, FEMA has broad authority to remove debris from both public and private property. Consequently, CBO estimates that implementing S. 939 would not have a significant effect on the budget though it could affect the timing of payments. CBO also estimates that enacting S. 939 would not affect direct spending or revenues.

S. 939 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Rachel Milberg. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.