

May 29, 2015

### **Ongoing Flood Damages to County Federal-aid Routes**

We are anticipating that a major disaster declaration may be issued that could provide federal Emergency Relief (ER) funding for emergency repairs and eligible permanent repairs to the Counties' Federal-aid routes for damages caused by ongoing flooding.

Only the Counties' Major Collector routes would be eligible for ER funding – Damages to local roads and bridges not on the Counties federal aid system are not eligible for ER funding, but may be eligible for funding through FEMA.

Minor Collectors are not eligible for ER funding.

Counties may refer to the functional classification maps to determine if a location is eligible for ER funding using this link:

<http://www.odot.org/maps/rfc/index.htm>

An online registration and application has been prepared for your use in listing damage sites.

We are encouraging all Counties to register with ODOT online and then create a brief application for any sites in your jurisdiction that may be eligible for ER funding.

Completion of the Online Registration process is required before applications for ER funding can be created or processed.

Registration is open now and may be accessed at this link:

<http://192.149.244.40:7777/apex/f?p=195:4:0>

You may then logon and create your applications for ER funding.

Assistance with the online application process, if needed, is available through your Circuit Engineering District or through the Department's Local Government Division staff or the ODOT Field Division office.

If a disaster declaration is approved, a multi-agency damage assessment team will schedule site inspections with the County to determine eligibility and develop cost estimates for emergency and permanent repairs.

ER funds can be used for "emergency repairs" and "permanent repairs."

Emergency repairs are those repairs during and immediately following a disaster to restore essential traffic, to minimize the extent of damage, or to protect the remaining facilities. Typical examples are:

- establishing emergency detours
- removing slides and debris
- providing temporary bridges or ferry service
- re-grading of roadway embankments and surfaces
- placing rip-rap to prevent further scour.

Document emergency repair costs : If a disaster has occurred and you are undertaking emergency repairs to restore essential traffic, minimize damage, or protect remaining facilities, keep good records of the costs incurred. These could be critical at a later date if you opt to seek reimbursement under the ER program. Before and after photo-documentation can be very important in expediting your claims.

Permanent repairs are those repairs undertaken, normally after emergency repairs have been completed, to restore the highway to its pre-disaster condition. Typical examples are:

- restoring pavement surfaces
- reconstructing damaged bridges and culverts
- replacing signs, guardrail, fences, and other highway appurtenances.

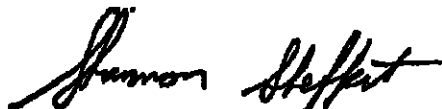
Emergency Repairs are generally completed by County Forces and Permanent Repairs are developed and let to bid through ODOT. Eligible costs are reimbursed with ER funds.

Please see the attached overview of the FHWA Emergency Relief Program.

Your primary contact for scheduling site inspections for the Emergency Relief Program will be your ODOT Field Division Local Government Engineer. Contact list is attached.

If additional information is required at this time, please let us know.

Sincerely,



Shannon J. Sheffert, P.E.  
Division Engineer  
Local Government Division

Cc: Circuit Engineering Districts  
ODOT Field Division Engineers

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Local Government Field Engineers/Managers:

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## **A Guide to the Federal-aid Highway Emergency Relief Program**

This currently does not reflect MAP-21 changes.  
Please see [http:// www.fhwa.dot.gov/map21/qandas/qaer.cfm](http://www.fhwa.dot.gov/map21/qandas/qaer.cfm)

### **What Is the Emergency Relief Program?**

The Emergency Relief (ER) program - administered by the Federal Highway Administration (FHWA) - is intended to supplement the commitment of resources by States, counties, and cities (or other Federal agencies when appropriate) to help pay for unusually heavy expenses resulting from extraordinary conditions.

The Congress has authorized ER funding as part of the FHWA's Federal-aid highway program. ER funds are available for the repair of Federal-aid highways or roads on Federal lands that have been seriously damaged by natural disasters over a wide area or by catastrophic failures from an external cause. Examples of natural disasters include floods, hurricanes, earthquakes, tornadoes, tidal waves, severe storms, or landslides. A bridge suddenly collapsing after being struck by a barge is an example of a catastrophic failure.

### **What Are Federal-aid Highways?**

The State highway agencies, working with local officials, have established the functional classification of all public roads, ranging from high service level arterials to lower service local streets. **Federal-aid highways are all the public roads not functionally classified as either local or rural minor collectors.** As a result, Federal-aid highways include the more important State, county, and city roads. Based on the functional classifications, about one-quarter of the overall public road mileage has been designated as Federal-aid highways.

### **What Is Serious Damage?**

Serious damage is major or unusual damage to a highway which severely impairs the safety or usefulness of the highway or results in road closures. Serious damage must be beyond the scope of work usually done by highway agencies in repairing damage normally expected from seasonal or occasionally different natural conditions.

As a general rule, the estimated cost for repairs from a disaster or catastrophic failure in a State must require at least \$700,000 in ER funding before the FHWA will consider approving the disaster or catastrophic failure as eligible for funding under the ER program.

### **How Much Emergency Relief Funding Is Available?**

By law, the FHWA can provide up to \$100 million in ER funding to a State for each natural disaster or catastrophic failure that is found eligible for funding under the ER program.

If a disaster, such as a large flood, covers several States, up to \$100 million in ER funding can be provided to each State involved in the disaster.

For a large, costly disaster that exceeds the \$100 million cap set forth in the law, Congress can pass special legislation lifting the cap for that disaster.

### **What is the Federal Share of Costs?**

The ER program is a cost-sharing program between the Federal Government and the State and/or local highway authorities. The Federal share for the repair of Federal-aid highways is established by law and somewhat complex. In addition, it varies depending on the nature of repairs, when the work is accomplished, and the Federal-aid route being repaired, as follows:

- For the costs associated with restoring essential highway traffic, minimizing the extent of damage, or protecting the remaining facility, which are incurred in the first 180 days after the occurrence of the disaster, the Federal share is 100 percent.
- For the costs of permanent restoration work, and the cost of all repairs incurred after the first 180 days, the Federal share is based on the type of Federal-aid highway that is being repaired. For Interstate highways, the Federal share is 90 percent. For all other Federal-aid highways the Federal share is 80 percent. The Federal share can be increased in States with high percentages of federally owned public lands.

### **What Types of Repairs Are Eligible for Funding?**

ER funds can be used for "emergency repairs" and "permanent repairs."

Emergency repairs are those repairs during and immediately following a disaster to restore essential traffic, to minimize the extent of damage, or to protect the remaining facilities. Typical examples are:

- establishing emergency detours
- removing slides and debris
- providing temporary bridges or ferry service
- regrading of roadway embankments and surfaces
- placing rip-rap to prevent further scour.

Permanent repairs are those repairs undertaken, normally after emergency repairs have been completed, to restore the highway to its predisaster condition. Typical examples are:

- restoring pavement surfaces
- reconstructing damaged bridges and culverts
- replacing signs, guardrail, fences, and other highway appurtenances.

### **What About Funding for Repairs on non-Federal-aid Highways?**

The FHWA's ER program is limited to the repair of Federal-aid highways (as previously defined) or roads on Federal lands. However, Federal assistance for the repair of public roads not covered by the FHWA's ER program is available through the disaster relief program administered by the Federal Emergency Management Agency under the Stafford Act.

## How Does the Emergency Relief Program Work?

The decision to seek financial assistance under the FHWA's ER program rests with the State highway agencies. Local highway authorities do not deal with the FHWA directly. Instead, they must make their application for possible funding through their State highway agency. It is the State highway agency's option to determine whether it will seek ER funding for the repair of Federal-aid highways, regardless of which jurisdiction - State or local - they are under.

The following outlines the ER process.

Restore Essential Service: State and local highway authorities are empowered to immediately begin emergency repairs to restore essential traffic service and to prevent further damage to Federal-aid highway facilities. Properly documented costs will later be reimbursed once the FHWA Division Administrator makes a formal finding that the disaster or catastrophic failure qualifies for funding under the ER program. On the other hand, permanent repairs require prior FHWA approval, which is only given after the FHWA Division Administrator makes a formal finding that ER funding will be provided for a disaster or catastrophic failure.

Governor's Proclamation: A formal proclamation of the existence of an emergency is made by the State Governor. A Presidential declaration, if issued, can also serve this same purpose.

Preliminary Notification: The State highway agency notifies the FHWA division office (the FHWA's field office in each State) by letter that it may be seeking ER funding. This is known as a "letter of intent" and is usually done as soon as it is evident that there is eligible damage.

Acknowledgement: The FHWA division office acknowledges receipt - in writing - of the State highway agency's letter of intent.

Damage Assessments: The State highway agency, in cooperation with FHWA division office engineers, undertakes damage surveys. This may include local authorities where appropriate. Typically, this involves on-the-ground visits of the damage sites to verify the extent of damage and to determine the cost of repairs eligible for ER funding. In some cases, where there is a need to expedite the delivery of ER funding for high-cost disasters, an initial damage survey may be based on aerial fly-overs, news telecasts, and other means of quickly estimating the extent of damage. This initial damage survey is then followed up later with more detailed site inspections.

Formal State Request: The State highway agency submits to the FHWA division office - in writing - its request for ER funding based on the damage assessments and cost estimates.

Division Administrator's Finding: The FHWA Division Administrator makes a decision on the eligibility of repairs for ER funding. If a positive finding is made, the division office submits a request for an allocation of ER funds to the FHWA headquarters office in Washington, DC to cover estimated needs for the current Federal fiscal year. Additional ER funding will be made available to the State as needs arise.

Implementation of Projects: ER projects are advanced generally in similar fashion as regular Federal-aid highway projects (although FHWA procedures allow many actions to be taken to expedite repair activities). Generally, the State highway agency has the lead in seeing that projects are advanced in accordance with appropriate Federal and State requirements. The total amount of ER funding provided is based on the Federal share of actual costs incurred by the State and local highway authorities to complete eligible repair activities.

### **What is the FHWA Division Office Role**

The Federal-aid highway program is a federally assisted State-administered partnership between the FHWA and the States. The [FHWA's division offices](#), located in every State, have been delegated the authority to function as FHWA's focal point in advancing Federal-aid highway projects.

For the ER program, the division office is available to:

- Brief State and local officials on the ER program
- Offer advice on the eligibility of repairs for funding
- Assist in performing on-site damage surveys and preparing estimates of the costs of repairs
- Expedite the flow of ER funding and the advancement of projects
- Provide technical assistance on the design of repair projects
- Coordinate damage surveys with other Federal agencies

### **Key Items for Local Authorities:**

State highway agency contact: Know the contact person within the State highway agency who is responsible for the administration of the ER program. This will serve as a conduit for receiving information from, and providing input to, the State.

Identify your Federal-aid highway routes: Maintain a listing of the Federal-aid routes in your county or community. Damage to these routes is potentially eligible for funding under FHWA's ER program.

Document emergency repair costs: If a disaster has occurred and you are undertaking emergency repairs to restore essential traffic, minimize damage, or protect remaining facilities, keep good records of the costs incurred. These could be critical at a later date if you opt to seek reimbursement under the ER program.

Permanent repair work: Remember, permanent repair work requires prior approval by the FHWA division office.

### **Additional Information:**

Feel free to contact the FHWA division office in your State (see <http://www.fhwa.dot.gov/field.html>) if you have questions on FHWA's ER program.

***Emergency Relief Manual***: This manual, published by the FHWA, provides more detailed guidance on the ER process, including the eligibility of work for funding. The ER manual is available online at <http://www.fhwa.dot.gov/reports/erm/index.cfm>.

## Excerpts from MAP 21 Emergency Relief Policy Revisions

ER funds are not limited to repairing a facility to its pre-disaster condition.

Section 1107 of MAP-21 provides that the total cost of a project funded under 23 U.S.C. 125 may not exceed the cost of repair or reconstruction of a comparable facility. A "comparable facility" is a facility that meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life. Additional guidance will be included in the next revision of the Emergency Relief Manual.

Section 1007 of MAP-21 incorporates into 23 U.S.C. 125 a restriction that ER funds may not be used to repair or reconstruct a bridge if the construction phase of a replacement structure is included in the approved statewide transportation improvement program at the time of an eligible event.

### DEBRIS REMOVAL

Section 1107 of MAP-21 placed limits on the ER eligibility for debris removal. As a result, under 23 U.S.C. 125(d)(3), in certain instances, debris removal previously eligible for ER funding will only be eligible for FEMA funding. Four scenarios regarding debris removal eligibility following a natural disaster or catastrophic failure from an external cause may include, but are not limited to:

1.

The event is declared to be an emergency by the Governor, but there is no Presidential declaration of a major disaster under the Stafford Act. The Secretary concurs with the Governor's emergency declaration.

If the Secretary concurs with the Governor's emergency declaration, ER funds may participate in debris removal on eligible sites on Federal-aid highways in the same manner as before MAP-21. ER funds will only be available in those counties included in the Governor's emergency declaration and any amendments for the same event.

2.

The event is declared to be an emergency or a major disaster by the President under the Stafford Act and debris removal is eligible for assistance under sections 403, 407, or 502 of the Act. There may or may not be a Governor's emergency declaration.

FEMA will fund debris removal on affected highways, including Federal-aid highways, in accordance with FEMA's Public Assistance Program. FHWA will not participate in debris removal costs, including any excess costs not covered by FEMA.

3.

The event is declared to be an emergency or major disaster by the President, but FEMA has determined that debris removal is not eligible for its assistance.

The ER funds can participate in debris removal costs on eligible sites on Federal-aid highways for sites that FEMA has determined to be ineligible under its program. FHWA division offices should request documentation of FEMA's determination that the debris removal is not eligible under the Stafford Act. Care



should be taken to ensure that the reason for FEMA's decision of ineligibility is not also a reason for ER ineligibility.

4.

The event is declared to be an emergency or major disaster by the President and debris removal is eligible for assistance from FEMA. There is also a Governor's emergency declaration. However, the Governor's declaration covers more counties than the President's declaration. The Secretary has concurred with the Governor's declaration.

ER may participate in debris removal costs on eligible sites on Federal-aid highways in the same manner as before MAP-21 for those sites subject to the Governor's declaration but not the President's declaration.

When Stafford Act funds are used for debris removal, the requirements of 44 CFR 206.224 will apply. These requirements are elaborated further in the FEMA Public Assistance Policy Digest which can be found at <http://www.fema.gov/pdf/government/grant/pa/pdigest08.pdf>.

When Title 23 funds are used for debris removal, the requirements of 23 CFR 668 will apply. These requirements are elaborated further in the Emergency Relief Manual which can be found at <http://www.fhwa.dot.gov/reports/erm/>.