

§ 660.519 Missile installations and facilities.

Should damage occur to public highways as a result of construction activities, the contractor would normally be held responsible for restoring the damages. However, should the contractor deny responsibility on the basis of contract terms, restoration is provided for under 23 U.S.C. 210(h).

(a) *Restoration under the contract.* (1) The highway agency having jurisdiction over the road shall take appropriate actions, such as load and speed restrictions, to protect the highway. When extensive damage is anticipated and the contractor under the terms of the contract is responsible, it may be necessary to require a performance bond to assure restoration.

(2) If the contractor does not properly maintain the roads when requested in writing, the highway agency having jurisdiction over the road shall perform extraordinary maintenance as necessary to keep the roads serviceable and maintain adequate supporting records of the work performed. Claims shall be presented to the contractor for this extraordinary maintenance and any other work required to restore the roads. If the contractor denies responsibility on the basis of the contract terms, the claim with the required supporting documentation shall be presented to the contracting officer for disposition and arrangement for reimbursement.

(b) *Restoration under 23 U.S.C. 210(h).* (1) To implement 23 U.S.C. 210(h), DOD must make the determination that a contractor for a missile installation or facility did not include in the bid the cost of repairing damage caused to public highways by the operation of the contractor's vehicles and equipment. The FHWA must then make the determination that the State highway agency is, or has been, unable to prevent such damage by restrictions upon the use of the highways without interference with, or delay in, the completion of the contract. If these determinations are made, the Division Administrator will be authorized by the Washington Headquarters to reimburse the highway agency for the cost of the work necessary to keep the roads in a serviceable condition.

(2) Upon receipt of a damage claim, division office representatives accompanied by representatives of the agencies that made the original condition survey will inspect the roads on which damage is claimed. The Division Administrator shall then prepare an estimate of the cost of restoring the roads to original condition as well as any documented cost for extraordinary maintenance for which reimbursement has not been received. No allowance for upgrading the roads shall be included.

PART 661—INDIAN RESERVATION ROAD BRIDGE PROGRAM

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