

§ 668.111

23 CFR Ch. I (4-1-01 Edition)

by the States and Divisions with Regional concurrence;

(2) Repair of surface damage caused by traffic whether or not the damage was aggravated by saturated subgrade or inundation, except ER funds may participate in:

(i) Repair of surface damage to any public road caused by traffic making repairs to Federal-aid highways.

(ii) Repair of surface damage to designated detours (which may lie on both Federal-aid and non-Federal-aid routes) caused by traffic that has been detoured from a damaged Federal-aid highway; and

(iii) Repair of surface damage to Federal-aid highways caused by vehicles responding to a disaster; provided the surface damage has occurred during the first 60 days after a disaster occurrence, unless otherwise approved by the FHWA Division Administrator.

(3) Repair of damage not directly related to, and isolated away from, the pattern of the disaster;

(4) Routine maintenance of detour routes, not related to the increased traffic volumes, such as mowing, maintaining drainage, pavement signing, snow plowing, etc.;

(5) Replacement of damaged or lost material not incorporated into the highway such as stockpiled materials or items awaiting installation;

(6) Repair or reconstruction of facilities affected by long-term, pre-existing conditions or predictable developing situations, such as, gradual, long-term rises in water levels in basins or slow moving slides, except for raising grades as noted in § 668.109(b)(8);

(7) Permanent repair or replacement of deficient bridges scheduled for replacement with other funds. A project is considered scheduled if the construction phase is included in the FHWA approved Statewide Transportation Improvement Program (STIP);

(8) Other normal maintenance and operation functions on the highway system including snow and ice removal; and

(9) Reimbursing loss of toll revenue.

(d) Replacement of a highway facility at its existing location is appropriate when it is not technically and economically feasible to repair or restore a seriously damaged element to its

predisaster condition and is limited in ER reimbursement to the cost of a new facility to current design standards of comparable capacity and character to the destroyed facility. With respect to a bridge, a comparable facility is one which meets current geometric and construction standards for the type and volume of traffic it will carry during its design life. Where it is neither practical nor feasible to replace a damaged highway facility in kind at its existing location, an alternative selected through the National Environmental Policy Act (NEPA) process, if of comparable function and character to the destroyed facility, is eligible for ER reimbursement.

(e) Except as otherwise provided in paragraph (b)(6) of this section, the total cost of a project eligible for ER funding may not exceed the cost of repair or reconstruction of a comparable facility. ER funds may participate to the extent of eligible repair costs when proposed projects contain unjustified betterments or other work not eligible for ER funds.

[52 FR 21948, June 10, 1987, as amended at 61 FR 67212, Dec. 20, 1996; 65 FR 25444, May 2, 2000]

§ 668.111 Application procedures.

(a) *Notification.* As soon as possible after the disaster, the applicant shall notify the FHWA Division Administrator of its intent to apply for ER funds.

(b) *Damage survey.* As soon as practical after occurrence, the State will make a preliminary field survey, working cooperatively with the FHWA Division Administrator and other governmental agencies with jurisdiction over eligible highways. The preliminary field survey should be coordinated with the Federal Emergency Management Agency work, if applicable, to eliminate duplication of effort. The purpose of this survey is to determine the general nature and extent of damage to eligible highways.

(1) A damage survey summary report is to be prepared by the State. The purpose of the damage survey summary report is to provide a factual basis for the FHWA Division Administrator's finding that serious damage to Federal-

aid highways has been caused by a natural disaster over a wide area or a catastrophe. The damage survey summary report should include by political subdivision or other generally recognized administrative or geographic boundaries, a description of the types and extent of damage to highways and a preliminary estimate of cost of restoration or reconstruction for damaged Federal-aid highways in each jurisdiction. Pictures showing the kinds and extent of damage and sketch maps detailing the damaged areas should be included, as appropriate, in the damage survey summary report.

(2) Unless very unusual circumstances prevail, the damage survey summary report should be prepared within 6 weeks following the applicant's notification.

(3) For large disasters where extensive damage to Federal-aid highways is readily evident, the FHWA Division Administrator may approve an application under § 668.111(d) prior to submission of the damage survey summary report. In these cases, an abbreviated damage survey summary report, summarizing eligible repair costs by jurisdiction, is to be prepared and submitted to the FHWA Division Administrator after the damage inspections have been completed.

(c) *Application.* Before funds can be made available, an application for ER must be made to, and approved by the FHWA Division Administrator. The application shall include:

(1) A copy of the Governor's proclamation, request for a Presidential declaration, or a Presidential declaration; and

(2) A copy of the damage survey summary report, as appropriate.

(d) *Approval of application.* The FHWA Division Administrator's approval of the application constitutes the finding of eligibility under 23 U.S.C. 125 and shall constitute approval of the application.

[65 FR 25444, May 2, 2000]

**§ 668.113 Program and project procedures.**

(a) Immediately after approval of an application, the FHWA Division Administrator will notify the applicant to proceed with preparation of a program

which defines the work needed to restore or replace the damaged facilities. It should be submitted to the FHWA Division Administrator within 3 months of receipt of this notification. The FHWA field office will assist the applicant and other affected agencies in preparation of the program. This work may involve joint site inspections to view damage and reach tentative agreement on type of permanent corrective work to be undertaken. Program data should be kept to a minimum, but should be sufficient to identify the approved disaster or catastrophe and to permit a determination of the eligibility and propriety of proposed work. If the damage survey summary report is determined by the FHWA Division Administrator to be of sufficient detail to meet these criteria, additional program support data need not be submitted.

(b) *Project procedures.* (1) Projects for permanent repairs shall be processed in accordance with regular Federal-aid procedures. In those cases where a regular Federal-aid project in a State similar to the ER project would be handled under the project oversight exceptions found in title 23, United States Code, the ER project can be handled in a similar fashion subject to the following two conditions:

(i) Any betterment to be incorporated into the project and for which ER funding is requested must receive prior FHWA approval; and

(ii) The FHWA reserves the right to conduct final inspections on all ER projects. The FHWA Division Administrator has the discretion to undertake final inspections on ER projects as deemed appropriate.

(2) Simplified procedures, including abbreviated plans should be used where appropriate.

(3) Emergency repair meets the criteria for categorical exclusions pursuant to 23 CFR 771.117 and normally does not require any further NEPA approvals.

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