

(b) *Betterments*. Added protective features, such as, the relocation or rebuilding of roadways at a higher elevation or the extension, replacement or raising of bridges, and added facilities not existing prior to the natural disaster or catastrophic failure such as additional lanes, upgraded surfacing, or structures.

(c) *Catastrophic failure*. The sudden failure of a major element or segment of a Federal road which is not primarily attributable to gradual and progressive deterioration or lack of proper maintenance. The closure of a facility because of imminent danger of collapse is not in itself a sudden failure.

(d) *Emergency repairs*. Those repairs, including necessary preliminary engineering (PE), construction engineering (CE), and temporary traffic operations, undertaken during or immediately after a natural disaster or catastrophic failure (1) to restore essential travel, (2) to protect remaining facilities, or (3) to minimize the extent of damage.

(e) *Federal roads*. Forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads as defined under 23 U.S.C. 101(a).

(f) *Finding*. A letter or other official correspondence issued by the Direct Federal Division Engineer (DFDE) to a Federal agency giving notification that pursuant to 23 U.S.C. 125, Federal roads have (Affirmative Finding) or have not (Negative Finding) been found to have suffered serious damage as the result of (1) a natural disaster over a wide area, or (2) a catastrophic failure.

(g) *Natural disaster*. An unusual natural occurrence such as a flood, hurricane, severe storm, tidal wave, earthquake, or landslide which causes serious damage.

(h) *Permanent work*. Repair or reconstruction to pre-disaster or other allowed geometric and construction standards and related PE and CE.

(i) *Direct Federal Division Engineer*. Director of one of the Direct Federal field offices located in Vancouver, WA; Denver, CO; and Arlington, VA.

[43 FR 59485, Dec. 21, 1978, as amended at 47 FR 10529, Mar. 11, 1982]

#### § 668.205 Policy.

(a) This emergency relief program is intended to pay the unusually heavy expenses in the repair and reconstruction of Federal roads resulting from damage caused by natural disasters over a wide area or catastrophic failures.

(b) Emergency relief work shall be given prompt attention and priority over non-emergency work.

(c) Permanent work shall be done by contract awarded by competitive bidding through formal advertising, where feasible.

(d) It is in the public interest to perform emergency repairs immediately and prior approval or authorization from the DFDE is not required. Emergency repairs may be performed by the method of contracting (advertised contract, negotiated contract, or force account) which the applicant or the Federal Highway Administration (FHWA) (where FHWA performs the work) determines to be most suited for this work.

(e) Emergency relief projects shall be promptly constructed. Projects not under construction by the end of the second fiscal year following the year in which the disaster occurred will be re-evaluated by the DFDE and will be withdrawn from the approved program of projects unless suitable justification is provided by the applicant to warrant retention.

(f) The Finding for natural disasters will be based on both the extraordinary character of the natural disturbance and the wide area of impact. Storms of unusual intensity occurring over a small area do not meet these conditions.

(g) Diligent efforts shall be made to recover repair costs from the legally responsible parties to reduce the project costs where highway damages are caused by ships, barge tows, highway vehicles, vehicles with illegal loads, and similar improperly controlled objects or events.

(h) Emergency funds shall not duplicate assistance under another Federal program or compensation from insurance or any other source. Where other funding compensates for only part of

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an eligible cost, emergency relief funding can be used to pay the remaining costs.

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### § 668.207 Federal share payable from emergency fund.

The Federal share payable under this program is 100 percent of the cost.

[43 FR 59485, Dec. 21, 1978]

### § 668.209 Eligibility of work.

(a) Permanent work must have prior program approval in accordance with paragraph (a) of § 668.215 unless such work is performed as emergency repairs.

(b) Emergency repairs, including permanent work performed incidental to emergency repairs, and all PE may begin immediately and do not need prior program approval. Reimbursement shall be contingent upon the work ultimately being approved in accordance with the requirements of paragraph (a) of § 668.215.

(c) To qualify for emergency relief, the damaged or destroyed road or trail shall be designated as a Federal road.

(d) Replacement highway facilities are appropriate when it is not practical and economically feasible to repair or restore a damaged element to its pre-existing condition. Emergency relief is limited to the cost of a new facility constructed 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.

(e) Emergency relief funds may participate to the extent of eligible repair costs when proposed projects contain betterments or other work not eligible for emergency funds.

(f) Work may include:

(1) Repair to, or reconstruction of, seriously damaged highway elements for a distance which would be within normal highway right-of-way limits, including necessary clearance of debris and other deposits in drainage courses, where such work would not be classed as heavy maintenance.

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(2) Restoration of stream channels when the work is necessary for the satisfactory operation of the Federal road. The applicant must have responsibility and authority for maintenance and proper operation of stream channels restored.

(3) Betterments where clearly economically justified to prevent future recurring damage. Economic justification acceptable to the DFDE must weigh the cost of such betterments against the risk of eligible recurring damage and the cost of future repair.

(4) Actual PE and CE costs on approved projects.

(5) Emergency repairs.

[43 FR 59485, Dec. 21, 1978, as amended at 47 FR 10529, Mar. 11, 1982]

### § 668.211 Notification, damage assessment, and finding.

(a) *Notification.* During or as soon as possible after a natural disaster or catastrophic failure, each applicant will notify the DFDE of its tentative intent to apply for emergency relief and request that a Finding be made.

(b) *Acknowledgment.* The DFDE will promptly acknowledge the notification and briefly describe subsequent damage assessment, Finding, and application procedures.

(c) *Field report.* The applicant shall cooperate with the DFDE to promptly make a field survey of overall damage and in the preparation of a field report.

(d) *Finding.* Using the field report and other information deemed appropriate, the DFDE will promptly issue a Finding and if an Affirmative Finding is made, establish the date after which repair or reconstruction will be considered for emergency relief, and note the dates of the extraordinary natural occurrence or catastrophic event responsible for the damage or destruction.

(e) *Detailed site inspections.* (1) If an Affirmative Finding is made, the applicant shall cooperate with the DFDE to make a detailed inspection of each damage site.

(2) If it appears certain an Affirmative Finding will be made, the DFDE may elect to make these site inspections at the time damage is initially assessed pursuant to paragraph (c) of this section.