

Declaration of Emergency

Introduction

When an emergency occurs the region needs to determine if the emergency requires a “Declaration of Emergency.”

A “Declaration of Emergency” is required whenever it is necessary to utilize emergency contracting procedures for work related to transportation facilities and to increase the limit for state force repair work from \$60,000 to \$100,000.

If the event is large enough (defined as: widespread area of catastrophic failure with a minimum repair cost of \$700,000) that federal “emergency relief” funding will be pursued, the region needs to complete a detailed damage inspection report (DDIR) that will be forwarded to the Federal Highway Administration (FHWA) in Olympia. *Note:* A signed DDIR (FHWA signature) is required prior to setting up the federal aid agreement (FHWA Form 120-006).

The following is applicable to all divisions of the Department of Transportation.

U.S. Department of Transportation (DOT)

Federal Highway Administration (FHWA)

Congress authorized in Title 23, United States Code, Section 125, a special program from the Highway Trust Fund for the repair or reconstruction of federal aid highways and roads on federal lands which have suffered serious damage as a result of (1) natural disasters or (2) catastrophic failures from an external cause. Two programs exist to provide aid under the circumstances described above. The Emergency Relief (ER) Program exists to provide relief on federal aid highways and is discussed in detail in this manual. In the case of roads on federal land that are not federal aid highways, the Emergency Relief for Federally Owned Roads (ERFO) Program may provide relief. These programs, run by DOT’s FHWA, supplement the commitment of resources by states, their political subdivisions, or other federal agencies to help pay for unusually heavy expenses resulting from extraordinary conditions.

Examples of natural disasters include floods, hurricanes, earthquakes, tornadoes, tidal waves, severe storms, or landslides. A catastrophic failure is defined as the sudden and complete failure of a major element or segment of the highway system that causes a disastrous impact on transportation services. The failure must be catastrophic in nature. Additionally, in order to be eligible for ER, the cause of the failure must be determined to be external to the facility. Both conditions must be satisfied. A bridge suddenly collapsing after being struck by a barge is an example of a catastrophic failure from an external cause.

ER funds are not intended to cover all damage repair costs nor interim emergency repairs costs that will necessarily restore the facility to predisaster conditions. State and local highway agencies must expect additional expenditures, changes in project priorities, and some inconvenience to traffic as a result of emergency conditions. State and local governments are responsible for planning and providing for such extraordinary conditions. Economic hardship is not a factor in determining repair eligibility. Although there is no nationwide definitive monetary break point between what is considered routine and extraordinary repair expenses, the FHWA has determined that eligible ER repair activities in a state in the range of \$700,000 (federal share) or more are usually significant enough to justify approval of ER funds. If the event will necessitate ERFO funds as well as ER funds, an additional \$700,000 or more in extraordinary repair expenses must be incurred on roads that are on federal land that are not federal aid highways.

By law the FHWA can provide up to \$100 million in combined ER and ERFO funding to a state, or to federal agencies for each natural disaster or catastrophic failure event that is found eligible for funding under the ER Program (commonly referred to as the \$100 million per state per disaster cap).

State and local transportation agencies are empowered to begin emergency repairs immediately to restore essential traffic service and to prevent further damage to federal aid highway facilities. Properly documented costs will later be reimbursed once the state formally requests ER funding, and the FHWA Division Administrator makes a finding that the disaster is eligible for ER funds.

There are three methods for developing and processing a state request for ER funding.

- **Traditional** – Requires a detailed damage inspection at many, if not all, sites. It generally takes six to ten weeks to develop an application.
- **Traditional (Expedited)** – Damage assessments are based on a “windshield” inspection at a sampling of sites. At least one site is visited in each county involved in the event. It generally takes two to three weeks to develop an application.
- **Quick Release** – For the purposes of an ER application few, if any, on-site damage surveys are made. Instead the disaster assessment is based on other readily available information such as credible media reports or aerial surveys done by the state. The state then requests ER funding based on their preliminary assessment of the damage. The request is done in a brief letter to the FHWA Division office. This method is highly visible and use is controlled by the DOT Secretary/FHWA Administrator. No damage survey summary report is prepared to accompany the ER application. Quick release begins the Traditional method and the damage survey reports follow at a later time in the recovery.

For more information about the Emergency Relief (ER) Program, interested parties should visit www.fhwa.dot.gov/programadmin/erelief.cfm.

For more information about the Emergency Relief for Federally Owned Roads (ERFO) Program, interested parties should visit www.efl.fhwa.dot.gov/programs-erfo.aspx.

Declaration of Emergency

The declaration of emergency authority is hereby delegated from the Secretary of Transportation to the Regional Administrators and the Directors of Aviation and Ferries for all work directly or indirectly related to transportation facilities. This also includes all work affecting property owned or used by their headquarters organization.

The declaration of emergency authority can be further delegated to the maintenance superintendent and/or project engineer by the Regional Administrator or a designee of the Directors of Aviation and Ferries when the preliminary repair estimate to provide the work does not exceed \$100,000 including sales tax. This also applies to property owned or used by a headquarters organization.

The Regional Administrators and/or the Directors for Aviation and Ferries are required to inform the Secretary of Transportation of all declared emergency projects.

Each declared emergency will be recorded on [DOT Form 540-021 EF](#) (see [Appendix 1](#)). The form is to be signed by the declarer and sent to Headquarters Emergency Management by the next working day. For each declared emergency, a project title will be given and work order(s) will be established. The same project title should be utilized wherever possible throughout all subsequent work phases and communications concerning the emergency.

Procedures

Declaration of Emergency ([DOT Form 540-021 EF](#))

<i>Action By</i>	<i>Action</i>
Maintenance superintendent and/or project engineer, and designee(s) for the Directors for Aviation and Ferries	<ul style="list-style-type: none"> • Prepare declaration of emergency using DOT Form 540-021 EF, emergency work up to \$100,000. • Send form to Headquarters Emergency Management Office by the next working day.
Regional Administrator and Directors for Aviation and Ferries	<ul style="list-style-type: none"> • Prepare declaration of emergency using DOT Form 540-021 EF, emergency work over \$100,000. • If project estimate exceeds \$700,000, the Secretary or Designee will review the form. • Send form to Headquarters Emergency Management Office by the next working day.
HQ Emergency Management	<ul style="list-style-type: none"> • Process the form and provide to the Secretary or designee for review.

Note: Headquarters Emergency Management Office will make distribution of the Emergency Declaration Form to the Secretary of Transportation, Assistant Secretary for Engineering and Regional Operations, Director of Highways and Local Programs Division, Headquarters Program Management, and the State Maintenance Engineer.

