

## Bureau of Indian Affairs, Interior

## § 170.927

### EMERGENCY RELIEF

#### **§ 170.920 What is the purpose of the provisions relating to emergency relief?**

Sections 170.920 through 170.927 relating to emergency relief are provided for information only and do not change the provisions of 23 CFR part 668 or existing guidance on emergency relief.

#### **§ 170.921 What emergency or disaster assistance programs are available?**

(a) FHWA operates two emergency relief programs:

(1) The Emergency Relief (ER) Program, which provides disaster assistance for Federal-aid highways owned by State, county and local governments; and

(2) The Emergency Relief for Federally Owned Roads (ERFO) Program, which provides disaster assistance for Federal roads, including Indian Reservation Roads, that have been damaged due to natural disasters (floods, hurricanes, tornadoes, etc.).

(b) The Federal Emergency Management Agency (FEMA) may be considered as an alternate funding source to repair damage that is ineligible under the ER or ERFO Programs.

#### **§ 170.922 How can States get Emergency Relief Program funds to repair IRR System damage?**

States can request emergency relief program funds to repair damage to Federal-aid highways caused by natural disasters or catastrophic failures. It is the responsibility of individual States to request these funds.

#### **§ 170.923 What qualifies for ERFO funding?**

(a) Tribes can use ERFO funding to repair damage to IRR transportation facilities (including roads, bridges, and related structures) caused by natural disaster over a widespread area or by a catastrophic failure from any external cause. The Secretary of Transportation determines eligible repairs under 23 CFR 668, subpart B.

(1) Examples of natural disasters include, but are not limited to, floods, earthquakes, tornadoes, landslides, avalanches or severe storms, such as saturated surface conditions and high-

water table caused by precipitation over an extended period of time.

(2) An example of a catastrophic failure includes, but is not limited to, a bridge collapse after being struck by a barge, truck or a landslide.

(b) Structural deficiencies, normal physical deterioration, and routine heavy maintenance do not qualify for ERFO funding.

#### **§ 170.924 What happens if DOT denies an ERFO claim?**

The appealing tribe or the facility owner (if the tribe is not the owner) may appeal the finding or determination to the Secretary of Transportation at: FHWA, 400 7th St., SW., HFL-1, Washington, DC 20590. If the tribe is appealing it must provide a courtesy copy of its appeal to BIA.

#### **§ 170.925 Is ERFO funding supplemental to IRR Program funding?**

Yes. If ERFO funds are approved and available, they can be used to supplement IRR construction and maintenance funds for FHWA-approved repairs. If IRR construction or maintenance funds are used to address an approved claim when ERFO funds are unavailable, the next authorized ERFO funds may be used to reimburse the construction or maintenance funds expended.

#### **§ 170.926 Can a tribe administer approved ERFO repairs under a self-determination contract or a self-governance agreement?**

Yes.

#### **§ 170.927 How can FEMA Program funds be used to repair damage?**

(a) A tribe can request FEMA Program funds for emergency repairs to damaged roads not on the IRR System if the President has declared a major disaster or emergency. The tribe makes the request by submitting an SF 424, Application for Federal Assistance, directly to FEMA, as described in FEMA Response and Recovery Directorate 9512.4 (Dec. 28, 1999).

(b) Tribes can ask States to seek FEMA Program funds to repair damage to roads not on the IRR System.