

FDOT Environmental Review Guidance for Emergency Relief Projects
Office of Environmental Management, FDOT, Central Office
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US 98 Hurricane Damage after Hurricane Michael, District 3



Interstate 10, Guardrail damage from Hurricane Michael, District 3

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1. General Overview

This guidance details roles and responsibilities of the District Environmental Management Office (EMO) for Federal Highway Administration (FHWA) emergency relief (ER) projects. In addition, permitting for emergency relief is also discussed. District EMO staff prepare the National Environmental Policy Act (NEPA) documentation required for the Florida Department of Transportation (FDOT) to seek reimbursement of federal funds. In some Districts, EMO staff participate on the damage assessment teams that determine what actions and projects are needed to repair the transportation facilities prior to reopening for public use. Damage assessment teams may include staff from maintenance, design, and construction offices.

If possible, prior to emergencies caused by natural disasters such as floods or hurricanes and prior to Governor's proclamation or President's declaration of emergency, the District EMO should coordinate with the District Emergency Operations Center, the District Federal Aid office, and the lead District ER staff to clarify the anticipated process and timing for each office's role in the process. Potential debris storage areas should be submitted and predetermined through the Florida Department of Environmental Protection (FDEP) [portal](#) for use of disaster debris management sites. Any required NEPA documentation should be prepared. Your District Emergency Officer may already have a pre-approved list of sites where these are located. Please follow the guidance listed here: [FDEP Staging Area Debris Guidance](#).

Documentation of environmental analysis is required for all damage repair work for emergency relief projects, if requesting federal reimbursement. Under NEPA, activities that may impact cultural resources, listed species or designated critical habitat will require emergency environmental consultation/coordination with the State Historic Preservation Officer (SHPO) (see Section 4), United States Fish and Wildlife Service (USFWS), and/or National Marine Fisheries Service (NMFS) (See Section 5). More information about NEPA and the Environmental Process can be found in the FDOT [Project Development & Environment \(PD&E\) Manual](#).

Best practices: Have hard copy contact lists for all agency and internal contacts and any forms you may need after the emergency event. This will be helpful in the event the power is out for an extended period of time. If environmental consultation with a regulatory agency is needed, consult immediately after the emergency. If possible (if agencies themselves are not impacted by the emergency) try to address resource coordination before the NEPA documentation is complete.

1.1 Emergency Relief Activities Eligible for Reimbursement

Damage repair work eligible for **Emergency relief funds** under **23 U.S.C. § 125** include: the repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that are in operation or under construction when damaged. The action must occur within the existing right of way (ROW) and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have

changed since the original construction). These repairs are restoration in-kind to pre-disaster conditions. Eligible emergency events must have caused at least \$700,000 (of federal share) in damage. Individual sites must have at least \$5000 dollars in damage (not including MOT, CEI and maintenance; generator placement alone does not qualify) in order to be eligible for emergency funding.

There are two types of emergency relief repairs that are eligible for FHWA reimbursement. **Emergency repairs** are those performed to restore essential traffic, to minimize the extent of damage, or to protect the remaining facilities. Repairs that go beyond these are **permanent repairs**. Some of the most common emergency repairs are from washouts, slope failures, and sinkholes. Safety is not a justification for determining emergency repair eligibility. More details on eligible projects can be found in the [FHWA ER Manual](#).

Emergency Repair examples include:

- Erection and removal of barricades and detour signs
- Flagging and pilot cars during the emergency period
- Construction of temporary roadway connections (detours)
- Erection of temporary detour bridges
- Temporary substitute highway traffic service, including ferry or transit service
- Removal of debris (confirm eligibility with FHWA)
- Use of explosives for removal of drift piling up on bridges
- Placing riprap around piers and bridge abutments to relieve severe on-going scour action
- Placing riprap on the downstream slopes of approach fills to prevent scour from overtopping
- Replacement of washed out embankments and approach fills
- Regrading of roadway surfaces, roadway fills, and embankments
- Placement of erosion control such as haybales, silt fencing, mulching, grassing seed, berms, sod, only if they're part of emergency repair activity
- Placement of final roadway surfaces when needed to restore essential traffic

Permanent repairs require a NEPA document and follow the typical NEPA process. To learn more about the FDOT's role in the NEPA process please refer to the [PD&E Manual](#). The class of action (i.e., amount of environmental analysis and documentation) will be determined by the type and amount of project impacts. When a local agency is completing the permanent repair for authorized work on the state highway system, the agency must be Local Agency Program (LAP) certified. Please see [Chapter 22 of the LAP Manual](#) for more guidance. Work outside of the travelled way and repairs to non-essential facilities such as rest areas are considered permanent repairs. If the repair area is larger than the project original footprint, it will be considered a betterment. Typically, any betterments require FHWA (usually the lead FHWA engineer) to pre-approve the restoration. Permanent repairs have to be programmed within 2 years for accounting purposes. For generators at signals to be eligible, the site must have over the \$5,000 in damage to the signal equipment.

Examples of permanent repairs include:

- Replacement of bridges
- Construction of retaining structures
- Highway relocations or the addition of significant protective measures such as geofabrics geogrids and shoreline stabilization
- Mast arm installation
- Noise barriers

- Lighting
- Fencing (depends on types)
- Signalization
- Adding an Intelligent Transportation System (ITS) component

2. Preparing a Detailed Damage Inspection Report

The damage assessment team will fill out a Detailed Damage Inspection Report (DDIR) explaining the repairs that were or need to be made. Details on completing the [DDIR form](#) can be found in the [FHWA Florida Division, Emergency Response Q&A](#). Completed DDIRs should be signed by the FHWA Engineer. District EMO should obtain a signed copy of the DDIR so the appropriate NEPA documentation can be developed and the *Environmental Certification for Federal Project*, found in SWEPT, can be completed for the repair. This form is required as part of the contract documents for federal-aid construction projects and should be used when submitting all projects, including LAP projects, for approval to the Federal Aid Office. Typically, the emergency repair DDIR gets signed off prior to other certifications. For permanent repairs, the Engineer signed DDIR gives District EMO the authorization to get the NEPA document and the Environmental Certification (if applicable) done. Emergency and permanent repairs have separate sections on the DDIR forms. Work should be separated into the corresponding section of the DDIR as each section has a different reimbursement rate (emergency work is refunded at 100% and permanent work is refunded at 80% for non- interstate/90% for interstate). The District EMO should collaborate with the District Permit Coordinator and any FDOT damage assessment team personnel during this process. The FHWA engineer can deny approval for repair work on DDIRs. If there is a pre-existing condition or proper maintenance has not been done, the work may not be approved to move forward. DDIR's must be revised when there's a 20% increase in cost or significant changes in the scope of work. The Federal Aid Coordinator will receive the DDIR, NEPA documentation, and the Environmental Certification to be able to process the reimbursement request. DDIRs must be completed **within 180** days of the emergency event for eligibility for 100% reimbursement.

Best practice: Prepare a plan for tracking FM numbers. Each District should separately keep track of their projects if using the same FM number within the Statewide Environmental Project Tracker (SWEPT). Coordinate with the District Work Program office on how to name and track projects for emergency relief activities.

We suggest using this standard project naming for ease of searching SWEPT: Emergency Repairs Hurricane XXXX – Location/ Damage Description/ IR-##-####. The OEM Help Desk (850-414-5334) can provide support if you have more questions involving this.

3. Preparing the NEPA Document

Emergency repairs are typically documented on the *Type 1 Categorical Exclusion (CE) Checklist, Form No. 650-050-12* that is generated by the District EMO and can be completed during or after the project start. For permanent repairs, if a project requires a higher class of action, usually a Type 2 CE, coordination with the Office of Environmental Management (OEM) is needed for approval of the NEPA document. NEPA documents are created using the SWEPT tool.

The NEPA document does not need to be prepared immediately after the emergency event, but will generally fall into one of these scenarios:

- a) For emergency repairs, if agency consultation/coordination is not required, the *Type 1 Categorical Exclusion (CE) Checklist, Form No. 650-050-12* must be submitted, along with the *Environmental Certification for Federal Project*, found in SWEPT, (if applicable) and DDIR for reimbursement.
- b) For emergency repairs when agency consultation/coordination is required, the *Type 1 Categorical Exclusion (CE) Checklist, Form No. 650-050-12* can be prepared with the consultation outstanding. Agency consultation/coordination should be initiated immediately after the emergency event or as soon as practicable. The documentation showing agency consultation/concurrence must be completed **within 180 days** of the emergency event start date to be eligible for 100% federal reimbursement. Details on cultural resources and listed species are in Sections 4 and 5. Typically for emergency repairs, the Type 1 CE form must be submitted with the DDIR for reimbursement.
- c) If the Department is completing a permanent repair, the standard NEPA process is required. The appropriate NEPA document is prepared by the district and, if applicable, approved by OEM. These projects must be submitted to FHWA for reimbursement within **2 years** of the storm event.

One CE may be completed for multiple damage sites (e.g., traffic control activities, guard rails and fences) as long as the description and locations of sites are clear, and they are on the same road within the same county. **FHWA guidance states that these sites should only be ¼ mile long and it is at FHWA's discretion to approve county wide projects that are over ¼ mile long.** The Environmental Screening Tool (EST) may be used to determine if any repairs were in sensitive areas. Potential locations where coordination/consultation may be necessary include coastal areas, shorelines, flood-prone areas, bridges, historic districts, areas with cultural resources, and areas containing wildlife and habitat resources, particularly listed species, critical wildlife habitats, and rare and sensitive habitat types. **The District must include the DDIR as supporting material for the Environmental Document in the SWEPT file.**

Districts should avoid, to the maximum extent possible, using lands which may be protected by **Section 4(f)** for emergency repair actions and/or debris storage and materials staging areas. When using land from a known **Section 4(f)** protected resource, the District must notify the Official with Jurisdiction (OWJ) for that property and coordinate the action with them as much as is practicable and appropriate. For more information regarding **Section 4(f)** protected resources please go to Part 2 Chapter 7 of the PD & E Manual.

For emergency repairs where consultation/coordination could not be completed before construction took place, the District EMO should track these projects and upload the appropriate documentation to the SWEPT file **within 180 days** of the emergency declaration.

A note about Planning Consistency: Emergency relief projects (except those involving substantial functional, locational, or capacity changes) are exempt from planning consistency documentation per 23 CFR 450.218.

Best Practice: Add the appropriate emergency event Executive Order to the project file with the Type CE 1 form.

For more information about the Emergency Relief procedure and the PD&E process, see Section 4.3 of [Part 1, Chapter 4 Project Development Process](#) of the PD&E Manual.

4. Archaeological and Historical Resources Consultation Requirements

Consultation with the State Historic Preservation Officer (SHPO) is required for projects where emergency actions may impact archaeological or historical resources (such as historic bridges) in accordance with Section 106 of the National Historic Preservation Act and Chapter 267, F.S. Refer to Stipulation IX of the Section 106 PA and Section 8.3.6.6 in [Part 2, Chapter 8 Archaeological and Historical Resources](#) of the PD & E Manual for detailed guidance on Section 106 consultation. Section 106 documentation can be completed concurrent with or after the action, but should be provided to SHPO within **180 days of the completion of the action**. Documentation of the consultation should be saved in the project's SWEPT file.

Best Practice: Keep track of any specific avoidance or mitigation measures used during the repair, such as having an archaeological monitor, in the project file for documentation during consultation with the SHPO.

5. Endangered Species Act Emergency Consultation Guidance

In cases where emergency actions may affect federally listed species and/or critical habitats, emergency consultation with the Services is required by Section 7 of the Endangered Species Act (ESA), as amended (50 CFR § 402.05). For example, when hurricane debris is pushed off the roadway onto right of way that is designated as critical habitat, this activity will require after the fact consultation with the USFWS.

Refer to Section 16.4 of [Part 2, Chapter 16 Protected Species and Habitat of the PD&E Manual](#).

Consultation should be completed **within 180 days** of the emergency declaration for emergency repairs to be eligible for 100% reimbursement. Permanent repairs will follow the typical NEPA process and should be submitted within 2 years of the event. Documentation of the consultation should be saved in the project's SWEPT file.

Best Practice: Keep track of any specific avoidance or mitigation measures used during the repair, such as placing special sand in coastal areas, in the project file for documentation during consultation with the USFWS, NMFS or permitting agencies.

Below are links to general emergency environmental consultation guidance as well as some information from specific past events.

USFWS Emergency Consultation information: <https://www.fws.gov/southeast/endangered-species-act/emergency-consultation/>

2017 Post Hurricane Irma Emergency Final Order for Sea Turtles:

<https://floridadep.gov/water/water/documents/post-hurricane-irma-fwc-sea-turtle-guidance-emergency-final-order-efo-ogc-no>

NMFS and NOAA Emergency Guidance:

http://sero.nmfs.noaa.gov/protected_resources/section_7/emergency_consultation/documents/2018_hurricane_emergency_guidance_508_.pdf

6. Emergency Permitting Guidance

The USACE has authority to issue alternative/emergency permitting procedures in response to an emergency. The USACE regulations define an emergency as a situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a period less than the normal time needed to process the application under standard procedures.

These alternate permitting procedures are specific for each storm event and are typically effective for a six-month period. See the emergency [USACE permitting procedures for Hurricane Michael](#) for an example of the USACE's Alternative Permit Application Processing Procedures.

Most of the USACE's authorizations will be completed through a Nationwide Permit. The USACE will authorize actions or work that are considered to be emergencies, which may include, but are not limited to, the discharge of dredged or fill material into waters of the United States, and work in navigable waters of the United States, to include dredging to restore navigation and relieve flooding, stabilization of eroded shorelines, repair and replacement of authorized structures including docks and bulkheads, installing temporary utility lines and access roads, replacing existing roads and bridges, installing water intake structures and removal and disposal of debris in waters. For certain in-kind replacements for emergency reconstruction, no permit is required for recently damaged parts as listed in [33 CFR Section 323.4](#).

The Secretary of the FDEP will issue an Emergency Final Order for Emergency Authorization for permitting repairs, replacement, restoration, and certain other measures made necessary in response to the imminent or immediate danger to the public health, safety, and welfare of the citizens of the state caused by a storm event. This emergency declaration will need to be saved in the project file with the NEPA checklist. See [FDEP Final Order for Hurricane Michael](#) as an example of what activities are authorized after a storm event. The Emergency Final Order typically will:

- Provide the emergency area (county list) where the order is in effect
- Include specific activities that may be authorized (may change with each Order that is released) without notice to the FDEP or appropriate WMD. Some activities require authorizations that may be issued upon site inspection by the regulatory agency
- Allow the FDOT to protect, repair or replace eligible structures and property without notice to the agency
- Provide for tolling and extending expiration dates of certain permits and other authorizations following the declaration of a state of emergency

Refer to the Emergency Final Order for specific details including general conditions that must be followed and time frame when activities must be completed. If the Emergency declaration or order time frame gets extended, this only allows for extension of the waiving of the eligible activities listed in the document, this does not extend the time frame (180 days from event) for eligible reimbursement.

Post Storm Environmental Resource Permitting (ERP) Guidance is available:

<https://floridadep.gov/water/water/documents/erp-post-storm-guidance-document>.

7. General Resources

Detailed Damage Inspection Report: https://www.fhwa.dot.gov/fldiv/documents/erpfaq_DDIR.pdf

Federal Highway ER Guidance: <https://www.fhwa.dot.gov/programadmin/erelief.cfm>

Federal Aid Highways Emergency Relief Manual <https://www.fhwa.dot.gov/reports/erm/er.pdf>

Local Agency Program Manual: https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/programmanagement/lap/manual/c22-final-2019-01-10.pdf?sfvrsn=f1a7eec5_2

Florida Division of Emergency Management: www.floridadisaster.org

Weather warnings and advisories from National Weather Service:
<https://alerts.weather.gov/cap/fl.php?x=1>

FDOT Emergency Management Office: <http://www.fdot.gov/emergencymanagement/>

FDEP Emergency Management: <https://floridadep.gov/hurricane>

Debris Staging area guidance: <https://floridadep.gov/comm/comm/documents/staging-area-storm-generated-debris-guidance>

Beaches Funding <https://floridadep.gov/water/beaches-funding-program/content/beaches-funding-assistance-information>

FDEP District Emergency Contacts: <https://floridadep.gov/comm/comm/content/district-environmental-emergency-contacts>

Guidance for Operation and Closure of Disaster Debris Management:
<https://floridadep.gov/waste/permitting-compliance-assistance/documents/guidance-establishment-operation-and-closure>

FEMA Public Assistance Program and Policy Guide: <https://www.fema.gov/media-library/assets/documents/111781>

FHWA Construction Contract Administration
<https://www.fhwa.dot.gov/programadmin/contracts/?CFID=46449791&CFTOKEN=e24ebd772d55b311-A750E4B5-93F1-B6CC-2FB8C5085B0FA60C>

Florida Marine Debris Emergency Response Guidance: <https://response.restoration.noaa.gov/marine-debris>