



# Memorandum

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Subject: **INFORMATION:** Emergency Relief -  
Consolidated and Further Continuing  
Appropriations Act, 2012 (PL112-55)

Date: April 9, 2012

In Reply Refer To:  
HIPA-10

From: David A. Nicol  
Director, Office of Program Administration

To: Directors of Field Services  
Division Administrators  
Federal Lands Highway Division Engineers

This memorandum provides guidance on the Emergency Relief (ER) provisions of the Consolidated and Further Continuing Appropriations Act, 2012, P.L.112-55.

## **Eligibility**

P.L. 112-55 provided supplemental ER funding of \$1,662,000,000 for necessary expenses resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Funding from this Act is limited to ER events coinciding with a Presidential disaster declaration under the Stafford Act. The Office of Program Administration made an initial allocation of these funds, FMIS Program Code ER80, on January 9, 2012. This funding was allocated only to those events that we could identify as also being Stafford Act events. Divisions must ensure that the ER80 funds are used only on the Stafford Act event for which they were designated. In addition, since the boundaries of ER and Stafford Act events may not always coincide, divisions must also ensure that ER80 funds are used only in locations where the boundaries of ER and Stafford Act events do coincide.

## **Waiver of Event Cap**

P.L. 112-55 allowed the Secretary of Transportation to obligate more than \$100,000,000 for a single natural disaster event in a State for ER projects arising from damage caused in fiscal year 2011 by Hurricane Irene or the Missouri River basin flooding in the spring of 2011, except for events involving closed hydrologic basins.

Any other events not meeting the description are still subject to the event cap in 23 U.S.C. 125(d). If a State anticipates exceeding the \$100,000,000 cap for an event described above, it should submit a request through the FHWA division to the Office of Program Administration.

### **Extension of 180 Days**

P.L. 112-55 directed the Secretary to extend the time period in 23 U.S.C. 120(e) for events occurring in fiscal years 2011 or 2012 in consideration of any delay in the State's ability to access damaged facilities to evaluate damage and estimate the cost of repair. The FHWA Division Administrator may exercise this flexibility on a location-by-location basis. The decision to extend the period for 100-percent eligibility for emergency repairs beyond the 180 days must be documented. Where multiple sites within an area are inaccessible due to the same flooding, the waiver may be extended for all of them. However, the provision does not provide a statewide waiver based on one or a few locations. Finally, the waiver does not apply to the full duration of time to complete repairs. Divisions should ensure that the additional time provided to charge emergency repairs at 100-percent funding is limited to the amount of time that specific locations are inaccessible.

If you have any questions, please contact Gregory Wolf at 202-366- 4655 or Peter Kleskovic at 202-366-4652.