

**Fixing America's Surface Transportation Act (FAST Act)
Emergency Relief Program
Questions & Answers
April 6, 2016**

Question 1: Did the FAST Act make changes to the Emergency Relief (ER) program?

Answer 1: Yes. The FAST Act made changes to the ER program in regard to debris removal (23 U.S.C. 125) and Federal share (23 U.S.C. 120).

Question 2: What change did the FAST Act make to the eligibility of debris removal under the ER program?

Answer 2: Section 1107 of the FAST Act expanded debris removal eligibility to include projects located on tribal transportation facilities, Federal lands transportation facilities, or other Federally owned roads that are open to public travel (as defined in 23 U.S.C. 125(e)(1)). The change provides that debris removal resulting from a qualifying event on these facilities is ER-eligible even if the President has declared a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

The change does not affect debris removal eligibility for Federal-aid roads owned by States and subrecipients.

Question 3: What change did the FAST Act make to the Federal share for the ER program?

Answer 3: Section 1408(b) of the FAST Act eliminated the 100 percent Federal share for repairs or reconstruction resulting from a qualifying ER event performed on Federal Lands Access Transportation Facilities (FLATF) that provide access to Federal lands. ER projects on these roads are now subject to the same Federal share as ER projects on other Federal-aid roads. (23 U.S.C. 120). The Consolidated Appropriations Act of 2016 made this change effective for ER-eligible disasters that occur on or after October 1, 2015. The 100 percent Federal share continues for repairs on FLATF roads resulting from a qualifying ER event that occurred before October 1, 2015.

Tribal transportation facilities, Federal lands transportation facilities, and other Federally owned roads that are open to public travel¹ are eligible for 100% Federal share under 23 U.S.C. 120(e)(2).

¹ “Open to public travel” is defined in 23 U.S.C. 125(e)(1)(A): “The term ‘open to public travel’ means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road—(i) is maintained; (ii) is open to the general public; and (iii) can accommodate travel by a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.”