

Corps and less expensive for the local sponsors.

Flood Fighting on Agricultural Levees

Several commenters stated that the Corps should undertake flood fights on levees that protect strictly agricultural lands. They stated that there were costs (beyond levee rehabilitation costs) associated with overtopped or breached agricultural levees.

The Corps disagrees with the commenter's intent while recognizing their concerns. It is acknowledged that flood control systems in place in the United States are not an absolutely ideal system. When a flood reaches a magnitude to start breaching or overtopping agricultural levees, then there are generally residential, commercial, and industrial areas that are also threatened, with a consequent higher threat for loss of human life as well as potentially higher costs for property damages. Historically, the total cost (borne not only by the Federal government but by State and local governments, insurance companies, and property owners) of a breached agricultural levee is less than that of a breached nonagricultural levee. In certain conditions the flood waters will not remain contained in the floodway and will inundate some protected areas. The Corps policy thus reflects an optimum approach to minimizing overall costs and preventing greater amounts of loss of life.

Rehabilitation for Damages Not Caused by a Flood Event

One commenter took issue with the statement that only damages related to floods should be addressed by rehabilitation work. The commenter wanted damages caused by use of navigation channels to be covered by Public Law 84–99.

The Corps disagrees with the commenter. Repair of damages not related to flood and coastal storm events is beyond the scope of assistance authorized by Public Law 84–99. Navigation projects operated by the Corps are funded by separate appropriations. Any damages to a flood control project related to operation of a navigation project are appropriately addressed with navigation funds.

Use of Benefit to Cost Ratios

One commenter stated that any Active project damaged by a flood or coastal storm should not be subject to any benefit to cost ratio.

The Corps disagrees with the comment. Statutorily, Public Law 84–99 rehabilitation projects must undergo a benefit to cost assessment. Following

Congressional intent contained in other Corps authorities for a benefit to cost ratio greater than 1.0 for new projects to be authorized, it is only logical to extend this approach to Public Law 84–99 projects so that proper stewardship of funds is exercised.

List of Subjects in 33 CFR Part 203

Disaster assistance, Flood control, Technical assistance, Water resources.

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Accordingly, 33 CFR Part 203 is revised as follows:

PART 203—EMERGENCY EMPLOYMENT OF ARMY AND OTHER RESOURCES, NATURAL DISASTER PROCEDURES

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Authority: 33 U.S.C. 701n.

Subpart A—Introduction

§ 203.11 Purpose.

This part prescribes administrative policies, guidance, and operating procedures for natural disaster preparedness, response, and recovery activities of the United States Army Corps of Engineers.

§ 203.12 Authority.

Section 5 of the Flood Control Act of 1941, as amended, (33 U.S.C. 701n) (69 Stat. 186), commonly and hereinafter referred to as Public Law 84–99, authorizes an emergency fund to be expended at the discretion of the Chief of Engineers for: preparation for natural disasters; flood fighting and rescue operations; repair or restoration of flood control works threatened, damaged, or destroyed by flood, or nonstructural alternatives thereto; emergency protection of federally authorized hurricane or shore protection projects which are threatened, when such protection is warranted to protect against imminent and substantial loss to life and property; and repair and restoration of federally authorized hurricane or shore protection projects damaged or destroyed by wind, wave, or water of other than ordinary nature. The law includes provision of emergency supplies of clean water when a contaminated source threatens the public health and welfare of a locality, and activities necessary to protect life and improved property from a threat resulting from a major flood or coastal storm. This law authorizes the Secretary of the Army (Secretary) to construct wells and to transport water within areas determined by the Secretary to be drought-distressed. The Secretary of the Army has delegated the authority vested in the Secretary under Public Law 84–99 through the Assistant Secretary of the Army (Civil Works) to the Chief of Engineers, subject to such further direction as the Secretary may provide.