

§ 203.44 Non-Federal flood control projects.

(a) *Scope of work.* The Corps will provide assistance in the rehabilitation of non-Federal projects only when repairs are clearly beyond the normal physical and financial capabilities of the project sponsor. The urgency of the work is considered when determining non-Federal capability.

(b) *Definition.* Non-Federal projects are defined as projects constructed with non-Federal funds, or a component of such a project. A project constructed under Federal emergency disaster authorities, such as Pub. L. 84-99 or Pub. L. 93-288, is not considered to be a Federal project unless it repairs or replaces for a damaged Federal project. A flood control project is defined as a project designed and constructed to have appreciable and dependable effects in preventing damage from irregular and unusual rises in water level. For a multi-purpose project, only those components that are necessary for the flood control function are considered eligible for repair.

(c) *Eligibility.* Any flood control project is eligible for rehabilitation provided the work can be economically justified and is not otherwise prohibited by this regulation.

(d) *Modifications.* (1) Modifications designed to preserve the integrity of existing non-Federal structures may be constructed at additional Federal expense in conjunction with post flood rehabilitation. The additional Federal cost will be limited to not more than one-third of the estimated Federal cost of rehabilitation to preflood condition, or \$100,000, whichever is less. Non-Federal interests are required to contribute any additional funds necessary to support the remaining cost of the modification.

(2) Modifications designed to provide an increased degree of flood protection or to provide protection to additional area, are not authorized.

(e) *Nonconforming works.* Any non-Federal project constructed without the appropriate local, State or Federal permits or waivers thereof will not be rehabilitated under Pub. L. 84-99.

Subpart E—Emergency Water Supplies and Drought Assistance**§ 203.51 Clean drinking water.**

(a) *Authority.* The Chief of Engineers is authorized to provide emergency supplies of clean drinking water to any locality which is confronted with a source of contaminated drinking water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality.

(b) *Policies.* (1) Any locality faced with a threat to public health and welfare from a contaminated source of drinking water is eligible for assistance.

(2) Eligibility for assistance will be based on one or more of the following factors:

(i) The maximum contaminant levels established under the Safe Drinking Water Act are exceeded.

(ii) The water supply has been identified as a source of illness by a State or Federal public health official (the specific contaminant does not have to be identified).

(3) The assistance will be directed toward provision of drinking only water. The quantity of water and the means of distribution will be at the discretion of the responsible Corps official, who will consider both the needs of the individual situation and the cost effectiveness of providing various quantities of water.

(4) If a locality has multiple sources of water, assistance will be furnished only to the extent that the remaining sources, plus reasonable conservation measures, cannot provide adequate drinking water.

(5) Loss of water supply is not a basis for assistance under this authority.

(6) Water will not be furnished for commercial processes, except as incidental to the use of existing distribution systems. This does not prohibit the furnishing of water for drinking by employees and on-site customers. Also, water for preparing retail meals and similar personal needs may be provided to the extent it would be furnished to individuals.

(7) The permanent restoration of safe drinking water supplies is the responsibility of local interests.

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(8) Corps assistance is limited to 30 days. Extension of this period requires a formal agreement between the State and the Corps, covering specified services and providing a firm schedule for local interests to provide normal supplies.

(9) State and local governments must make full use of their own resources, including National Guard capabilities.

(10) Requests for assistance must be signed by the Governor of the State. For Indian tribal lands, the Bureau of Indian Affairs will normally request assistance.

(c) *Non-Federal responsibilities.* Non-Federal interests are responsible for restoration of the routine supply of clean drinking water, including correcting any situations which cause contamination. If assistance is furnished, local interests must furnish the basic requirements of local cooperation. In all cases reasonable water conservation measures must be implemented. Local interest may be required to operate and maintain temporary supply equipment and to remove and return it to Federal interest after the problem is corrected.

§ 203.52 Drought assistance.

(a) *Authority.* The Chief of Engineers, acting for the Secretary of the Army, has the authority under certain statutory conditions to construct wells and to transport water to farmers, ranchers and political subdivisions within areas he determines to be drought-distressed. This authority was added to Pub. L. 84-99 by Pub. L. 95-51.

(b) *General policy.* (1) It is a non-Federal responsibility for providing an adequate supply of water to its inhabitants. Corps assistance to provide emergency water supplies will only be considered when non-Federal interests have exhausted reasonable means for securing necessary water supplies, including assistance and support from other Federal agencies.

(2) Before Corps assistance is considered under Pub. L. 95-51, the applicability of other Federal assistance authorities should be evaluated. If these programs cannot provide the needed assistance, then maximum coordination should be made with appropriate agencies in implementing Corps assistance.

(3) An analysis will be made of costs of the proposed work and of any reasonable alternatives.

(c) *Definitions*—(1) *Construction.* This term includes initial construction, reconstruction or repair.

(2) *Drought-distressed area.* An area which the Secretary of the Army determines, due to drought conditions, has an inadequate water supply which is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the area including threat of damage or loss of property.

(3) *Eligible applicant.* Any rancher, farmer or political subdivision within a designated drought-distressed area that is experiencing an inadequate supply of water due to drought.

(4) *Farmer or rancher.* An individual who realizes at least 1/3 of his/her gross annual income from agricultural sources and is recognized in the community as a farmer or rancher. A farming partnership or corporation engaged in farming or ranching which receives its majority income from such activity may be considered as an eligible applicant.

(5) *Political subdivision.* A city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law, having jurisdiction over the water supply of such public body.

(6) *Reasonable cost.* In connection with the Corps construction of a well, means the lesser of:

(i) The cost of the Chief of Engineers to construct a well in accordance with these regulations exclusive of;

(A) The cost of transporting equipment used in the construction of wells,

(B) The cost of investigation and report preparation to determine the suitability to construct a well, or

(ii) The cost to a private business of constructing such a well.

(7) *State.* Any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(d) *Guidance-construction of wells.* (1) Assistance to an eligible applicant by the construction of a well may be provided on a cost-reimbursable basis if: