

§ 203.32

property, or to protect against significant threats to public health and welfare, and are intended to bridge the time frame between the occurrence of a disaster and the provision of disaster relief efforts under authority of The Stafford Act.

(a) *Flood Response.* Flood Response measures are applicable to any flood control work where assistance is supplemental to tribal, State, and local efforts, except that Corps assistance is not appropriate to protect flood control works constructed, previously repaired, and/or maintained by other Federal agencies, where such agencies have emergency flood fighting authority. Further, Flood Response measures (except technical assistance) are not appropriate for flood control works protecting strictly agricultural lands. Corps assistance in support of other Federal agencies, or State and local interests, may include the following: technical advice and assistance; lending of flood fight supplies, e.g., sandbags, lumber, polyethylene sheeting, or stone; lending of Corps-owned equipment; hiring of equipment and operators for flood operations; emergency contracting; and similar measures.

(b) *Post Flood Response.* The Corps may furnish Post Flood Response assistance for a period not to exceed 10 days (the statutory limitation) from the date of the Governor's request to the Federal Emergency Management Agency for an emergency or disaster declaration under authority of the Stafford Act. Requests for Post Flood Response assistance must be made by the Governor of the affected State, except that requests for assistance on lands held in trust by the United States, or on lands of the Alaska Natives, may be submitted directly by the affected federally recognized Indian Tribe or Alaska Native Corporation, or through the appropriate regional representative of the Bureau of Indian Affairs, or through the Governor of the State in which the lands are located. Assistance from the Corps may include the following: provision of technical advice and assistance; cleaning of drainage channels, bridge openings, or structures blocked by debris deposited during a flood event, where the immediate threat of flooding of or damage to

33 CFR Ch. II (7-1-06 Edition)

public facilities has not abated; removal of debris blockages of critical water supply intakes, sewer outfalls, etc.; clearance of the minimum amounts of debris necessary to reopen critical transportation routes or public services/facilities; other assistance required to prevent imminent loss of life or significant damage to public property, or to protect against significant threats to public health and welfare. Post Flood Response assistance is supplemental to the maximum efforts of non-Federal interests.

§ 203.32 Policy.

Prior to, during, or immediately following flood or coastal storm activity, emergency operations may be undertaken to supplement State and local activities. Corps assistance is limited to the preservation of life and property, *i.e.*, residential/commercial/industrial developments, and public facilities/services. Direct assistance to individual homeowners, individual property owners, or businesses is not permitted. Assistance will be temporary to meet the immediate threat, and is not intended to provide permanent solutions. All Corps activities will be coordinated with the State Emergency Management Agency or equivalent. Reimbursement of State or local emergency costs is not authorized. The local assurances required for the provision of Corps assistance apply only to the work performed under Public Law 84-99, and will not prevent State or local governments from receiving other Federal assistance for which they are eligible.

(a) *Flood Response.* Requests for Corps assistance will be in writing from the appropriate requesting official, or his or her authorized representative. When time does not permit a written request, a verbal request from a responsible tribal, State, or local official will be accepted, followed by a written confirmation.

(1) Corps assistance may include operational control of flood response activities, if requested by the responsible tribal, State, or local official. However, legal responsibility always remains with the tribal, State, and local officials.

(2) Corps assistance will be terminated when the flood waters recede below bankfull, absent a short term threat (e.g., a significant storm front expected to arrive within a day or two) likely to cause additional flooding.

(3) Removal of ice jams is a local responsibility. Corps technical advice and assistance, as well as assistance with flood fight operations, can be provided to supplement State and local efforts. The Corps will not perform ice jam blasting operations for local interests.

(b) *Post Flood Response.* A written request from the Governor is required to receive Corps assistance. Corps assistance will be limited to major floods or coastal storm disasters resulting in life threatening situations. The Governor's request will include verification that the Federal Emergency Management Agency (FEMA) has been requested to make an emergency or disaster declaration; a statement that the assistance required is beyond the State's capability; specific damage locations; and the extent of Corps assistance required to supplement State and local efforts. Corps assistance is limited to 10 days following receipt of the Governor's written request, or on assumption of activities by State and local interests, whichever is earlier. After a Governor's request has triggered the 10-day period, subsequent request(s) for additional assistance resulting from the same flood or coastal storm event will not extend the 10-day period, or trigger a new 10-day period. The Corps will deny any Governor's request for Post Flood Response if it is received subsequent to a Stafford Act Presidential disaster declaration, or denial of such a declaration. Shoreline or beach erosion damage reduction/prevention actions under Post Flood Response will normally not be undertaken unless there is an immediate threat to life or critical public facilities.

(c) *Loan or issue of supplies and equipment.* (1) Issuance of Government-owned equipment or materials to non-Federal interests is authorized only after local resources have been fully committed.

(2) Equipment that is lent will be returned to the Corps immediately after the flood operation ceases, in a fully

maintained condition, or with funds to pay for such maintenance. The Corps may waive the non-Federal interest's responsibility to pay for or perform maintenance if a Stafford Act Presidential emergency or disaster declaration has already been made for the affected locality, and the waiver is considered feasible and reasonable.

(3) Expendable supplies that are lent, such as sandbags, will be replaced in kind, or paid for by local interests. The Corps may waive the local interest's replacement/payment if a Stafford Act Presidential disaster declaration has been made for the affected locality, and the waiver is considered feasible and reasonable. All unused expendable supplies will be returned to the Corps when the operation is terminated.

Subpart D—Rehabilitation Assistance for Flood Control Works Damaged by Flood or Coastal Storm: The Corps Rehabilitation and Inspection Program

§ 203.41 General.

(a) *Authority.* Public Law 84-99 authorizes repair and restoration of the following types of projects to ensure their continued function:

(1) Flood control projects.

(2) Federally authorized and constructed hurricane/shore protection projects.

(b) *Implementation of authority.* The Rehabilitation and Inspection Program (RIP) implements Public Law 84-99 authority to repair and rehabilitate flood control projects damaged by floods and coastal storm events. The RIP consists of a process to inspect flood control work; a status determination, *i.e.*, an inspection-based determination of qualification for future Rehabilitation Assistance; and the provision of Rehabilitation Assistance to those projects with Active status that are damaged in a flood or coastal storm event.

(c) *Active status.* In order for a flood control work to be eligible for Rehabilitation Assistance, it must be in an Active status at the time of damage from a flood or coastal storm event. To gain an Active status, a non-Federal flood control work must meet certain