

§ 203.47

during Continuing Eligibility Inspections may result in ineligibility to receive Rehabilitation Assistance under Public Law 84-99.

(d) *Economic justification.* No flood control work will be rehabilitated unless the work required satisfies Corps criteria for a favorable benefit-to-cost ratio, and the construction cost of the work required exceeds \$15,000. Construction costs greater than \$15,000 do not preclude the Corps from making a determination that the required work is a maintenance responsibility of the non-Federal sponsor, and not eligible for Corps Rehabilitation Assistance.

§ 203.47 Modifications to non-Federal flood control works.

Modifications necessary to preserve the structural integrity of existing non-Federal projects may be constructed at additional Federal and non-Federal expense in conjunction with approved rehabilitation work. The additional Federal cost will be limited to not more than one-third of the estimated Federal construction cost of rehabilitation to pre-flood level of protection, or \$100,000, whichever is less. The modification work must be economically justified. Non-Federal interests are required to contribute a minimum of 25% of the total construction costs of the modification, LERRD's, and any additional funds necessary to support the remaining cost of the modification beyond what the Corps can provide. Engineering and design costs will be at Corps cost.

(a) *Cash contributions.* Non-Federal contributions will be only in cash. In-kind services are not permitted for modification work.

(b) *Protection of additional areas.* Modifications designed to provide protection to additional area are not authorized.

§ 203.48 Inspection guidelines for non-Federal flood control works.

(a) *Intent.* The intent of these guidelines is to facilitate inspections of the design, construction, and maintenance of non-Federal flood control works. The guidelines are not intended to establish design standards for non-Federal flood control works, but to provide uniform procedures within the Corps

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

for conducting required inspections. The results of these inspections determine Active status in the RIP, and thus determine eligibility for Rehabilitation Assistance. The contents of this section are applicable to both IEI's and CEI's.

(b) *Level of detail.* Evaluations of non-Federal flood control works will be made through on site inspections and technical analyses by Corps technical personnel. The level of detail required in an inspection will be commensurate with the complexity of the inspected project, the potential for catastrophic failure to cause significant loss of life, the economic benefits of the area protected, and other special circumstances that may occur. Technical evaluation procedures are intended to establish the general capability of a non-Federal flood control work to provide reliable flood protection.

(c) *Purposes.* The IEI assesses the integrity and reliability of the flood control work. In addition, other essential information required to help determine the Federal interest in future repairs/rehabilitation to the flood control work will be obtained. The IEI will establish the estimated level of protection and structural reliability of the existing flood control work. Subsequent CEI's will seek to detect changed project conditions that may have an impact on the reliability of the flood protection provided by the flood control work, to include the level of maintenance being performed on the flood control work.

(d) *Inspection components*—(1) *Hydrologic/hydraulic analyses.* The level of protection provided by a non-Federal flood control work will be evaluated and expressed in terms of exceedence frequency (e.g., a 20% chance of a levee being overtopped in any given year). These analyses also include an evaluation of existing or needed erosion control features for portions of a project that may be threatened by stream flows, overland flows, or wind generated waves.

(2) *Geotechnical analyses.* The Geotechnical evaluation will be based primarily on a detailed visual inspection. As a minimum, for levees, the IEI will identify critical sections where levee stability appears weakest and

will document the location, reach, and cross-section at these points.

(3) *Maintenance.* Project maintenance analysis will evaluate the maintenance performance of the non-Federal sponsor, and deficiencies of the project. This evaluation should reflect the level of maintenance needed to assure the intended degree of flood protection, and assess the performance of recent maintenance on the project. The effects of structures on, over, or under the flood control work, such as buried fiber optic cables, gas pipelines, etc., will be evaluated for impact on the stability of the structure.

(4) *Other structural features.* Other features that may be present, such as pump stations, culverts, closure structures, etc., will be evaluated.

(e) *Ratings.* Inspected flood control works will receive a rating in accordance with the table below. The table below provides the general assessment parameters used in assigning a rating to the inspected flood control work.

Rating	Assessment
A—Acceptable	No immediate work required, other than routine maintenance. The flood control project will function as designed and intended, and necessary cyclic maintenance is being adequately performed.
M—Minimally Acceptable.	One or more deficient conditions exist in the flood control project that need to be improved/corrected. However, the project will essentially function as designed and intended.
U—Unacceptable ...	One or more deficient conditions exist which can reasonably be foreseen to prevent the project from functioning as designed, intended, or required.

(f) *Sponsor reclama.* If the results of a Corps evaluation are not acceptable to the project sponsor, the sponsor may choose, at its own expense, to provide a detailed engineering study, preferably certified by a qualified Professional Engineer, as a reclama to attempt to change the Corps evaluation.

§ 203.49 Rehabilitation of Hurricane and Shore Protection Projects.

(a) *Authority.* The Chief of Engineers is authorized to rehabilitate any Federally authorized hurricane or shore protection structure damaged or destroyed by wind, wave, or water action of an other than ordinary nature when, in the discretion of the Chief of Engi-

neers, such rehabilitation is warranted for the adequate functioning of the project.

(b) *Policies.* (1) Rehabilitation of HSPP's is limited to the repair/restoration of the HSPP to a pre-storm condition that allows for the adequate functioning of the project, provided that the damage was caused by an extraordinary storm.

(2) To be eligible for Rehabilitation Assistance, HSPP's must be:

(i) A completed element of a Federally authorized project; or,

(ii) A portion of a Federally authorized project constructed by non-Federal interests when approval of such construction was obtained from the Commander, Headquarters, U.S. Army Corps of Engineers (HQUSACE), or his designated representative; or,

(iii) A portion of a Federally authorized project constructed by non-Federal interests and designated by an Act of Congress as a Federal project; and

(3) Rehabilitation Assistance for sacrificial features will be limited to that necessary to reduce the immediate threat to life and property, or restoration to pre-storm conditions, whichever is less.

(4) To be eligible for rehabilitation, the sacrificial features of an HSPP must be substantially eroded by wind, wave, or water action of an other than ordinary nature. The determination of whether a storm qualifies as extraordinary will be made by the Director of Civil Works, and may be delegated to the Chief, Operations Division, Directorate of Civil Works.

(5) Rehabilitation will not be provided for uncompleted HSPP's. An HSPP (or separable portion thereof) is considered completed when transferred to the non-Federal sponsor for operation and maintenance.

(6) *Definition of extraordinary storm.* An extraordinary storm is a storm that, due to prolongation or severity, creates weather conditions that cause significant amounts of damage to a Hurricane/Shore Protection Project. "Prolongation or severity" means a Category 3 or higher hurricane as measured on the Saffir-Simpson scale, or a storm that has an exceedance frequency equal to or greater than the design storm of the project. "Significant