

amount of Federal expenditures (including sunk pre-construction engineering and design costs as a first year Federal construction expenditure) as a percentage of total Federal expenditures. Total Federal expenditures include cash payments for construction and if necessary (due to ability to pay considerations), for LERRD, and for reimbursement to the non-Federal sponsor. Total Federal expenditures for the purpose of this calculation, do not include expenditures which allow the non-Federal sponsor to defer payment of the non-Federal share under the provisions of this rule.

(f) For non-structural projects, reductions in the non-Federal cost-share as a result of the ability to pay test will not affect the procedures for determining the non-Federal and Federal payment schedules. For non-structural projects, no specific cash payments during construction are required by law.

[54 FR 40581, Oct. 2, 1989, as amended at 60 FR 5134, Jan. 26, 1995]

## PART 242—FLOOD PLAIN MANAGEMENT SERVICES PROGRAM ESTABLISHMENT OF FEES FOR COST RECOVERY

Sec.

- 242.1 Purpose.
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AUTHORITY: Section 321 of Pub. L. 101-640, 74 Stat. 500 (33 U.S.C. 709a).

SOURCE: 56 FR 54712, Oct. 22, 1991, unless otherwise noted.

### § 242.1 Purpose.

This part gives general instructions on the implementation of section 321 of Public Law 101-640, 74 Stat. 500 (33 U.S.C. 709a) as it applies to the use of a Fee Schedule for recovering the cost of providing Flood Plain Management Services to Federal agencies and private persons.

### § 242.2 Applicability.

This part applies to all HQUSACE elements, Major Subordinate Com-

mands, and District Commands of the Corps of Engineers having Civil Works responsibilities.

### § 242.3 References.

The references in paragraphs (b) and (c) of this section may be obtained from USACE Pub. Depot, CEIM-SP-D, 2803 52d Avenue, Hyattsville, MD 20781-1102.

(a) Section 321, Public Law 101-640, 74 Stat. 500 (33 U.S.C. 709a).

(b) Corps of Engineers Engineering Regulation 1105-2-100, Planning Guidance Notebook.

(c) Corps of Engineers Engineering Pamphlet 37-1-4, Cost of Doing Business.

### § 242.4 Definitions.

As used in this part:

*Private persons* means all entities in the private sector, including but not limited to individuals, private institutions, sole proprietorships, partnerships, and corporations.

*Total cost* means total labor charges which include adjustments for benefits, administrative overhead, and technical indirect costs. These terms are described in the reference in § 242.3 (c).

### § 242.5 General.

(a) The Corps of Engineers Flood Plain Management Services Program provides a wide range of flood plain and related assistance upon request. Depending on the complexity of the request, either a nonnegotiated Fee Schedule or a negotiated agreement will be used to recover the cost of services provided to Federal agencies and private persons. This part involves only the nonnegotiated Fee Schedule.

(b) State, regional, or local governments or other non-Federal public agencies will be provided Flood Plain Management Services without charge.

### § 242.6 Fee schedule.

(a) *General.* The Fee Schedule described in this section will be used to recover the cost for Flood Plain Management Services requiring more than ten minutes and up to one work day to provide. The Fee Schedule has been designed to minimize administrative costs and to allow the flexibility needed to recover the approximate total

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costs for services provided to Federal agencies and private persons.

(b) *Level of effort.* For establishing charges, services covered by the Fee Schedule have been divided into five levels as follows:

(1) Level 1 includes the provision of basic information from readily available data that does not require technical evaluation or documentation and is transmitted by form letter to the customer.

(2) Level 2 includes the provision of information from readily available data that requires minimal technical evaluation and is transmitted by form letter to the customer.

(3) Level 3 includes the provision of information that requires some file search, a brief technical evaluation, and documentation of results by a form letter or brief composed letter to the customer.

(4) Level 4 includes the provision of information and assistance that requires moderate file search, a brief technical evaluation, and documentation of results in a composed letter to the customer.

(5) Level 5 includes the provision of information and assistance that requires significant file search or retrieval of archived data, a moderate technical evaluation, and documentation of results in a brief letter report to the customer.

(c) *Charge determination.* The Fee Schedule will be used Corps-wide. As requests are received, the responding office will select the appropriate level on the Fee Schedule to determine the charge for providing the service.

(d) *Provision of services.* The services will be provided on a first-come, first-served basis after payment has been received.

(e) *Fees.* The Fee Schedule, including a brief description of the services in each of the five levels and the related charges, is shown in Table 1 to this section. The fee for each level is based on a Corps-wide average of estimated current costs for providing that level of service.

(f) *Review and revision of fees.* The fees shown in the Fee Schedule will be reviewed each fiscal year using the most current cost data available. If nec-

essary, the Fee Schedule will be revised after public notice and comment.

**TABLE 1 TO §242.6—FEE SCHEDULE; STANDARD CORPS-WIDE CHARGES FOR FPMS TASKS REQUIRING MORE THAN TEN MINUTES AND UP TO ONE DAY**

| Level   | Description of work                                                                                                                                                                       | Fee  |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| 1 ..... | Basic information from readily available data that does not require technical evaluation or documentation and is transmitted by form letter.                                              | \$25 |
| 2 ..... | Information from readily available data that requires minimal technical evaluation which is transmitted by form letter.                                                                   | 55   |
| 3 ..... | Information that requires some file search, brief technical evaluation, and documentation of re-sults by a form letter or by a brief composed letter.                                     | 105  |
| 4 ..... | Information and assistance that re- quires moderate file search, brief technical evaluation, and documentation of results in a composed letter.                                           | 165  |
| 5 ..... | Information and assistance that re- quires significant file search or retrieval of archived data, moderate technical eval- uation, and documentation of results in a brief letter report. | 325  |

**PART 245—REMOVAL OF WRECKS AND OTHER OBSTRUCTIONS**

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- 245.20 Determination of hazard to naviga- tion.
- 245.25 Determination of remedial action.
- 245.30 Identification of responsible parties.
- 245.35 Judgments to require removal.
- 245.40 Removal by responsible party.
- 245.45 Abandonment.
- 245.50 Removal by Corps of Engineers.
- 245.55 Permit requirements.
- 245.60 Reimbursement for removal costs.

**AUTHORITY:** 5 U.S.C. 301; 33 U.S.C. 1, 409, 411-415; 10 U.S.C. 3012.

**SOURCE:** 53 FR 27513, July 21, 1988, unless otherwise noted.

**§245.1 Purpose.**

This part describes administrative procedures and policy used by the Corps of Engineers in exercising its authority for wreck removal. Procedures are intended to insure that the impacts of obstructions are minimized, while recognizing certain rights of owners, operators and lessees.