

time as an adequate maintenance program is restored, and the project is determined by the Corps to be adequately maintained.

(b) *Advice and reporting.* Information on the results of CEI inspections will be furnished in writing to non-Federal sponsors, and will be maintained in Corps district offices. Non-Federal sponsors will be informed that a CEI rating of Unacceptable will cause the flood control work to be placed in an Inactive status, and not eligible for Rehabilitation Assistance. Non-Federal sponsors will be informed that maintenance deficiencies found during CEI's may negatively impact on eligibility of future Rehabilitation Assistance, and the degree of local cost-sharing participation in any proposed work. Follow-up inspections can be made by the Corps to monitor progress in correcting deficiencies when warranted.

§ 203.44 Rehabilitation of non-Federal flood control works.

(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 required will be considered in determining the sponsor's capability.

(b) *Eligibility for Rehabilitation Assistance.* A flood control project is eligible for Rehabilitation Assistance provided that the project is in an Active status at the time of the flood event, the damage was caused by the flood event, the work can be economically justified, and the work is not otherwise prohibited by this subpart D.

(c) *Work at non-Federal expense.* At the earliest opportunity prior to commencement of or during authorized rehabilitation work, the Corps will inform the project sponsor of any work that must be accomplished at non-Federal cost. This includes costs to correct maintenance deficiencies, and any modifications that are necessary to preserve the integrity of the project.

(d) *Nonconforming works.* Any non-Federal project constructed or modified without the appropriate local, State, tribal, and/or Federal permits, or waivers thereof, will not be rehabilitated under Public Law 84-99.

(e) *Cooperation Agreements.* A Cooperation Agreement is required in accordance with subpart G of this part.

§ 203.45 Rehabilitation of Federal flood control works.

Rehabilitation of Federal flood control projects will be identical to rehabilitation of non-Federal projects (§203.44), except for those conditions contained in subpart G of this part concerning cooperation agreements, when the original PCA for the Federal project is sufficient. Additional requirements for Hurricane/Shore Protection Projects are covered in §203.49.

§ 203.46 Restrictions.

(a) Restrictions to flood control works. Flood control works are designed and constructed to have appreciable and dependable protection in preventing damage from irregular and unusual rises in water levels. Structures built primarily for the purposes of channel alignment, navigation, recreation, fish and wildlife enhancement, land reclamation, habitat restoration, drainage, bank protection, or erosion protection are generally ineligible for Public Law 84-99 Rehabilitation Assistance.

(b) *Non-flood related rehabilitation.* Rehabilitation of flood control structures damaged by occurrences other than floods, hurricanes, or coastal storms will generally not be provided under Public Law 84-99.

(c) *Maintenance and deterioration deficiencies.* Rehabilitation under Public Law 84-99 will not be provided for either Federal or non-Federal flood control projects that, as a result of poor maintenance or deterioration, require substantial reconstruction. All deficient or deferred maintenance existing when flood damage occurs will be accomplished by, or at the expense of, the non-Federal sponsor, either prior to or concurrently with authorized rehabilitation work. When work accomplished by the Corps corrects deferred or deficient maintenance, the estimated deferred or deficient maintenance cost will not be included as contributed non-Federal funds, and will be in addition to cost-sharing requirements addressed in §203.82. Failure of project sponsors to correct deficiencies noted

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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

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