



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 239

[COE-2019-0004]

RIN 0710-AA94

Water Resources Policies and Authorities: Federal Participation in Covered Flood Control Channels

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule removes the U.S. Army Corps of Engineers' part titled Water Resources Policies and Authorities: Federal Participation in Covered Flood Control Channels. Each removed section of this part is outdated in reference to engineering criteria and requirements, and covers internal agency operations that have no public compliance component or adverse public impact. Current policy and procedures on this subject can be found in internal documents. Therefore, this part can be removed from the Code of Federal Regulations (CFR).

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Department of the Army, U.S. Army Corps of Engineers, ATTN: CECW-P (Ms. Amy Frantz), 441 G Street NW, Washington, DC 20314-1000.

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SUPPLEMENTARY INFORMATION: This final rule removes from the CFR 33 CFR part 239, Water Resources Policies and Authorities: Federal Participation in Covered Flood Control Channels. The rule was initially published in the *Federal Register* on October 13, 1978 (43 FR 47470), and amended on June 21, 1979 (44 FR 36175). The regulation established policy for

determining Federal participation in covered flood control channels. The regulation made clear that if, during the planning process, it appears that covered flood control channels are desirable, reporting officers may evaluate them and include them when they best serve the public interest. The regulation specified what reports on proposals to provide covered channels should include for engineering considerations. It was published, at that time, in the *Federal Register* to aid public accessibility. The solicitation of public comment for this removal is unnecessary because the rule is outdated in reference to engineering criteria and requirements and covers internal agency operations that have no public compliance component or adverse public impact. For current public accessibility purposes, the current policy on Federal participation in flood control projects may be found in Engineer Regulation 1165-2-21, “Flood Damage Reduction Measures in Urban Areas,” dated October 30, 1980 (available at https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER_1165-2-21.pdf); and 33 CFR part 238, Flood Damage Reduction Measures in Urban Areas. The agency policy is only applicable to field operating activities having Civil Works responsibilities and provides guidance specific to the Corps’ participation in urban flood damage reduction projects.

This rule removal is being conducted to reduce confusion for the public as well as for the Corps regarding the current policy which governs Federal participation in covered flood control channels. Because the regulation does not place a burden on the public, its removal does not provide a reduction in public burden or costs.

This rule is not significant under Executive Order (E.O.) 12866, “Regulatory Planning and Review.” Therefore, the requirements of E.O. 13771, “Reducing Regulation and Controlling Regulatory Costs,” do not apply. This removal supports a recommendation of the DoD Regulatory Reform Task Force.

List of Subjects in 33 CFR Part 239

Flood control.

PART 239—[REMOVED]

Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 239.

R.D. James,
Assistant Secretary of the Army
(Civil Works).

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