



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 240

[COE-2020-0005]

RIN 0710-AB07

General Credit for Flood Control

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 General Credit for Flood Control. Each removed section of this part is out-of-date as current policy and procedures on this subject can be found in internal documents.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.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Frantz at (202) 761-0106 or by email at Amy.K.Frantz@usace.army.mil.

SUPPLEMENTARY INFORMATION: This final rule removes from the CFR 33 CFR part 240, General Credit for Flood Control. The rule was initially published in the *Federal Register* on November 18, 1987 (52 FR 44113). The regulation established guidelines and procedures for Department of the Army application of the provisions of section 104 of Pub. L. 99-662. Section 104 authorizes and directs the development of guidelines which include criteria for determining whether work carried out by local interests is compatible with a project for flood control. This legislative authority also provides that benefits and costs of compatible work will

be considered in the economic evaluation of the Federal project. This authority provides a basis for non-Federal interests to undertake local work to alleviate flood damages in the period preceding authorization of a Federal project with assurance that they will not adversely affect the project's economic feasibility. The regulation provides general policy and procedures on the application of section 104 and credit criteria for projects. 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 The solicitation of public comment for this removal is unnecessary because the rule is out-of-date, and otherwise covers internal agency operations that have no public compliance component or adverse public impact. For current public accessibility purposes, updated internal agency policy on this topic may be found in Engineer Regulation (ER) 1165-2-208, "In-Kind Contribution Credit Provisions of Section 221 (a)(4) of the Flood Control Act of 1970, as amended" (available at https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER_1165-2-208.pdf).

This rule removal is being conducted to reduce confusion for the public as well as for the Corps regarding the current policy which governs the Corps' general credit for flood control. 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 240

Flood control, Intergovernmental relations.

PART 240—[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 240.

Approved by: _____

R.D. James,

Assistant Secretary of the Army (Civil
Works).

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