

# Interim Policy for Determining Eligibility Status of Flood Risk Management Projects for the Rehabilitation Program Pursuant to Public Law (PL) 84-99

March 24, 2014



US Army Corps of Engineers  
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# Purpose of Webinar

Dissemination of the Interim Policy for the Rehabilitation Program.

- 30-35 minutes
  - ▶ Overview of draft policy and key questions
- 25-30 minutes
  - ▶ Q&As via Chat feature

*Note: Final Interim Policy was issued to USACE offices on March 21, 2014*



# Webinar Guide

- Please identify yourself/group (location/CoP) via Chat if not apparent in Participants list.
- Use the Chat feature to submit questions at the end. Set the Chat to go to all Participants.
- Please use your mute button to minimize background noise. Global mute will be set during the presentation.



# Agenda

1. Background
2. Summary of comments/resolution
3. Implementing the interim policy
4. Future direction of the Rehabilitation Program



# Background

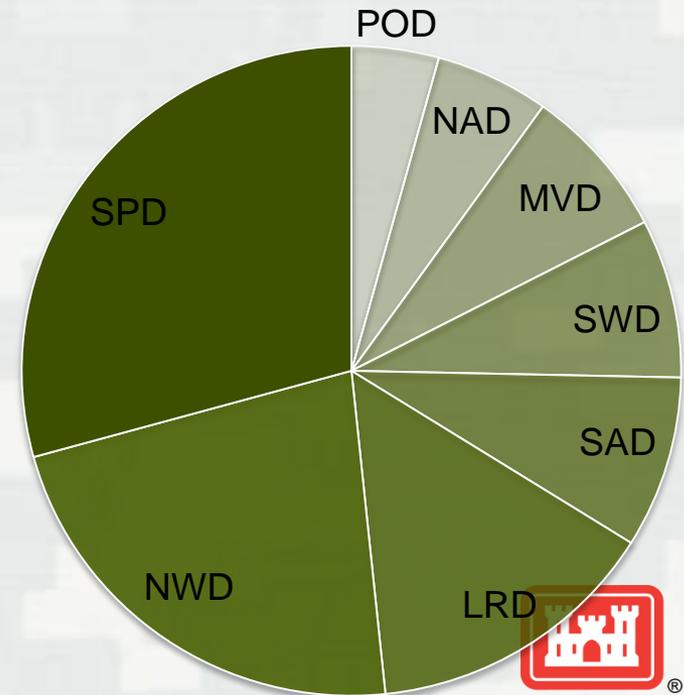
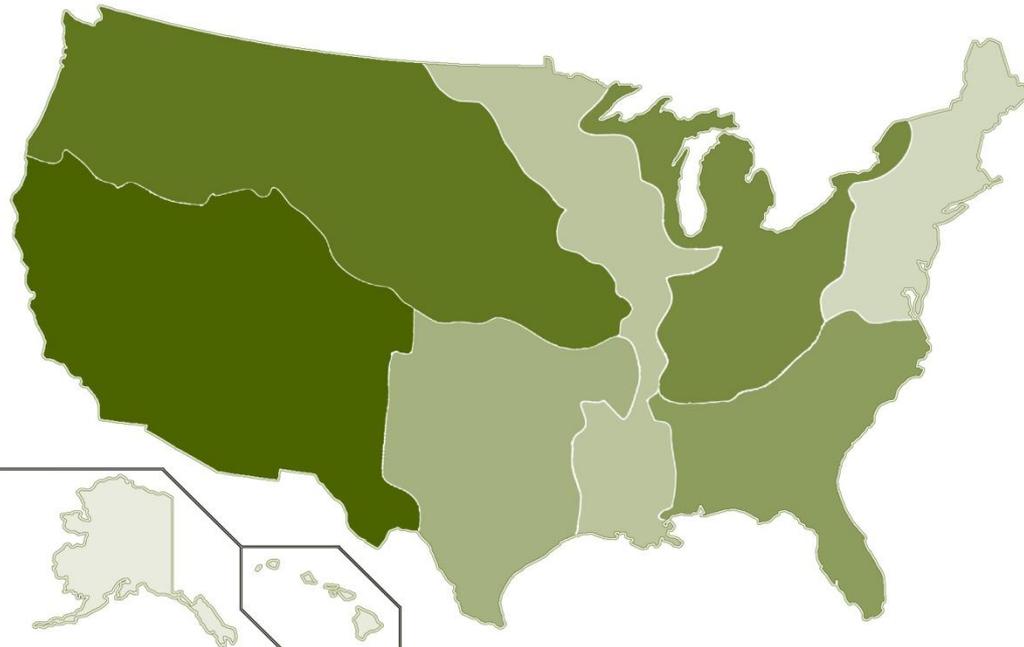
- The intent of the update to the Rehabilitation Program policy is to:
  - ▶ Support the agency's strategic direction and advances in risk-informed decision making
  - ▶ Increase risk communication with stakeholders
  - ▶ Enhance long-term sustainability
- The primary purpose of the Interim Policy for Determining Eligibility Status in the Rehabilitation Program is to:
  - ▶ Provide interim criteria for determining eligibility for rehabilitation assistance during the transition to the development of a final policy and revisions to 33 CFR Part 203 are developed.
  - ▶ Using a sub-set of existing criteria to determine eligibility in a manner that does not create an incentive to take actions that might negatively impact natural resources or Tribal rights.



# Summary of Comments

**Distribution of Comments by Division**

SPD	NWD	LRD	SAD	SWD	MVD	NAD	POD
89	68	41	35	24	23	17	13
29%	22%	13%	11%	8%	7%	5%	4%



# Top 5 Comments Cont'd

## 1) Specific eligibility criteria

- ▶ Requests to include/exclude various inspection items such as vegetation and video inspection of culverts
- ▶ ASSESSMENT: Team reviewed inspection items again and selected items remain unchanged. Subset selected because of current descriptions in checklist and to ensure no conflicts with natural resources.

## 2) NEPA/Section 7 environmental compliance for SWIF implementation

- ▶ ESA/NEPA as sponsor responsibility, definition of 'Federal Action,' funding sources/responsibility
- ▶ ASSESSMENT: Paragraph 7.f. has been revised to clarify that USACE will consult under Section 7 if needed for any action taken for a SWIF and that the public sponsor will be responsible for data gathering



# Top 5 Comments Cont'd

## 3) No incentive to correct 'other' inspection items

- ▶ Belief that checklist items not linked to eligibility will no longer be addressed by sponsors
- ▶ **ASSESSMENT:** The Interim Policy encourages public sponsors to follow the maintenance practices to ensure levee integrity and reduce flood risk to the community. Districts should discuss these concepts with public sponsors

## 4) Losing flexibility of "engineering judgment"

- ▶ Request for two-year period to address U rated items linked to eligibility
- ▶ **ASSESSMENT:** Each inspection items requires judgment in assigning its rating. Sponsors have the ability to regain active status through corrections of U-rated items through routine O&M activities or the SWIF process



# Top 5 Comments Cont'd

## 5) Possibilities for Rehabilitation Program Status:

- a) an M-rated system being ineligible or
- b) a U-rated system being eligible
  - ▶ Requests for change so ratings and eligibility mirror one another
  - ▶ **ASSESSMENT:**
    - Case a) Based on the descriptions of the interim eligibility inspection items, an Unacceptable item rating on any of those items could be detrimental to performance of the levee system. This likely would result in an Unacceptable system rating and Inactive status in the Rehabilitation Program under the previous policy.
    - Case b) Not all items on the existing checklists will be used for eligibility determinations, therefore, systems could receive a U system rating based on inspection items not included in the interim criteria.



# Other Notable Changes

- If inspectors encounter unsafe conditions or conditions that make it impossible to conduct the inspection
  - ▶ the inspector will end the inspection
  - ▶ the levee system will be deemed Inactive and reconsideration of status will not occur until final policy issuance
  - ▶ SWIF is an option for public sponsors to address this condition
- Only items 1-5 from the Initial Eligibility Inspection form are required during a CEI for active status determination for non-federal levee systems
- Channels that are integral to a levee system will be inspected as part of that levee system, using existing channel-related inspection items. However, eligibility determinations will be based on the levee system interim criteria.



# Implementation

- This policy is effective immediately and applies to all HQUSACE elements, divisions, districts, laboratories, and other field operating activities (FOA) of USACE.
- Eligibility determinations for channels, dams, tunnels, and debris basins will remain suspended and their status (either Active or Inactive) will remain unchanged.
- This interim policy does not impact federal Coastal Storm Damage Reduction (CSDR) projects – eligibility determinations will still be made with existing criteria.
- Easy for the field to implement, stays within existing policies, and does not require new information to be collected beyond current inspections.



# Implementation

- The policy for assigning overall inspection rating remains unchanged but will not be linked to eligibility.
- Interim eligibility criteria for levee systems are a subset (18 items) of existing inspection checklist.
- Interim eligibility criteria for non-federal levee systems will also use a subset (5 items) of existing the initial eligibility checklist.
- Must receive a Minimally Acceptable or Acceptable on all interim eligibility inspection items to maintain Active status.
- Maintenance reporting by sponsor is required.



# Implementation - SWIFs

- Encourage public sponsors to continue to develop and implement SWIFs for all standards.
- Sponsors undergoing SWIF process will be given a choice:
  - (a) continue as is
  - (b) reprioritize their plan to align with interim guidance;
  - (c) or cancel the SWIF or LOI and follow interim policy.
- For HQ approved/accepted LOIs/SWIFs, Districts may approve/accept any amendments in accordance with the interim policy.



# Roll Out

- Public communication documents will be posted on the Levee Safety/PAO/FRM websites.
- Districts should discuss implementation of this interim policy with appropriate sponsors, governments, etc.
- Development of final Rehabilitation Program policy has begun.
- USACE will conduct internal and external activities to solicit ideas for new eligibility criteria for consideration.



# Future Direction

- Improvements will be made to the Rehabilitation Program to synchronize with USACE's strategic direction and advances in the flood risk management and levee safety, such as:
  - ▶ Revising its eligibility criteria to promote broader flood risk management activities such as:
    - Emergency preparedness planning
    - Risk communication
  - ▶ Prioritizing maintenance activities based on risk
  - ▶ Aligning flood risk terminology and activities in ER 500-1-1 and the upcoming EC for the Levee Safety Program



# Questions?

## POINTS OF CONTACT

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