

U.S. ARMY CORPS OF ENGINEERS' LEVEE VEGETATION REMOVAL POLICY



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REQUESTED ACTION: Delay implementation of U.S. Army Corps of Engineers' (Corps) policy on levee vegetation management. In addition, seek modifications to the policy that: (1) considers regional variation across the nation; (2) includes a variance and exemption provision where appropriate; (3) conforms to other federal and state laws and allows for risk-based and science-based management decisions; (4) includes local government in a transparent and collaborative process; and, (5) delegates limited authority to approve variances and exemptions to Corps Division commanders.

BACKGROUND: Following extensive flooding in New Orleans from Hurricane Katrina, the Corps began reassessing its levee safety standards, including enforcing its vegetation policy more rigorously. The policy requires all vegetation, except grass, to be removed from levees in order to allow for easier inspections and to reduce any potential weakening of levees through root growth and overturned trees. Levees that the Corps deems to be out of compliance with its vegetation policy will be ineligible for federal disaster assistance. Notably, the Corps' own initial research on the topic indicates that minimal data exists on the scientific relationship between vegetation and levees.

The Corps' vegetation requirement creates considerable challenges for local governments and flood control agencies. For starters, implementing the directive will cost localities billions of dollars nationwide. In California alone, the Department of Water Resources estimates that the minimum cost of complying with the vegetation removal policy will total roughly \$7.5 billion. Although the Corps allows local agencies to apply for an exemption from its vegetation policy, called a "variance," the timeline and costs associated with the variance submittal process represents a significant burden on local levee sponsors. One estimate puts the cost of preparing a variance request at \$450,000 per levee mile.

Additionally, the Corps' policy is often in direct conflict with federal and/or state laws and regulations that prohibit the removal of vegetation on or next to levees, particularly when the vegetation provides habitat for endangered or threatened species. Accordingly, county officials can be put in the untenable position of choosing between removing vegetation - and therefore potentially violating environmental laws - or leaving vegetation in place and foregoing eligibility for federal relief to conduct post-disaster levee repairs.

If the Corps' vegetation policy is not modified, it will drastically change the scope of flood protection projects that are maintained by local agencies (3,000 miles of levees in California are impacted by this policy). CSAC and other stakeholders strongly believe that it would be fiscally and environmentally irresponsible to expend such an enormous amount of public funds to remove vegetation features absent a commensurate, demonstrable increase in public safety.

Earlier this year, Representative Doris Matsui (D-CA) introduced HR 399, the *Levee Vegetation Review Act*. The bipartisan legislation is cosponsored by 26 members of the California congressional delegation and would require the Secretary of the Army to conduct a comprehensive review of the Corps' current one-size-fits-all national standard. Additionally, the bill would require the Corps to provide a process for approving regional or watershed variances, while seeking input from state and local entities. CSAC has endorsed the legislation.

On a related matter, the Senate Environment and Public Works (EPW) Committee released late last year a draft Water Resources Development Act (WRDA) reauthorization bill that includes a section on levee vegetation. The levee vegetation provisions of the draft bill - which is expected to be considered by the EPW Committee this spring - are similar to the provisions of HR 399.

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