

APPENDIX B - Synopsis of Program Legislation

SHORE PROTECTION

1. P.L. 71-520 (1930). Section 2 authorizes the Chief of Engineers to conduct shore erosion control studies in cooperation with appropriate agencies of various cities, counties, or States. Amended by Section 103, P.L. 86-645. Section 2 also established the Beach Erosion Board. Amended by P.L. 88-172.
2. P.L. 79-526 (1946). Section 14 authorizes emergency bank-protection works to prevent flood damage to highways, bridge approaches and public works. Amended by P.L. 93-251 and P.L. 99-662.
3. P.L. 79-727 (1946). Establishes Federal policy to assist in the construction, but not maintenance, of works to protect publicly-owned shores of the United States against erosion from waves and currents. Amended by P.L. 84-826, P.L. 87-874, and P.L. 91-611.
4. P.L. 84-99 (1955). Authorizes the Chief of Engineers to provide emergency protection to threatened Federally authorized and constructed hurricane and shore protection works, and to repair or restore such works damaged or destroyed by wind, wave, or water action of other than an ordinary nature.
5. P.L. 84-826 (1956). Expands the Federal role by authorizing Federal participation in the cost of works for protection and restoration of the shores of the United States, including private property if such protection is incidental to the protection of publicly-owned shores, or if such protection would result in public benefits. It also provides for Federal assistance for periodic nourishment on the same basis as new construction, for a period to be specified by the Chief of Engineers, when it would be the most suitable and economical remedial measure. Amended by Section 156, P.L. 94-587, and Section 934 of P.L. 99-662.
6. P.L. 86-645 (1960). Section 103 amends Section 2, P.L. 71-520, and authorizes the Chief of Engineers under the direction of the Secretary of the Army to conduct shore erosion prevention studies in cooperation with the appropriate agencies of various coastal States, the Commonwealth of Puerto Rico and possessions of the United States.
7. P.L. 87-874 (1962). Section 103 increases the proportion of construction costs borne by the Federal Government for beach erosion control and shore protection projects. Section 103 authorizes the Secretary of the Army, acting through the Chief of Engineers, to plan and construct small beach erosion control projects within certain limits without specific Congressional authorization. Amended by Section 112, P.L. 91-611 and Section 915(e), P.L. 99-662. Implementing policies and procedures for this authority can be found in ER 1105-2-100.

ER 1165-2-130
15 Jun 89

8. P.L. 88-172 (1963). Abolished the Beach Erosion Board, transferred its review functions to the Board of Engineers for Rivers and Harbors (BERH), and established the Coastal Engineering Research Center.

9. P.L. 89-72 (1965). Requires that planning of water resources projects consider opportunities for outdoor recreation and fish and wildlife enhancement. The Act specifies that outdoor recreation benefits that can be attributed to a project shall be taken into account in determining the overall benefits of a project (e.g., recreational use of beach fill, groins or other shore protection structures).

10. P.L. 90-483 (1968).

a. Section 111 authorizes the Secretary of the Army, acting through the Chief of Engineers, to study, plan, and implement structural and nonstructural measures for the mitigation of shore damages attributable to Federal navigation works. This authority applies to both public and privately-owned shores along the coastal and Great Lake shorelines. Amended by Sections 915 (f) and 940, P.L. 99-662. Implementing policies and procedures for this authority may be found in ER 1105-2-100.

b. Section 215 authorizes the Secretary of the Army, acting through the Chief of Engineers, to enter into agreements providing for reimbursement to States or political subdivisions for work to be performed by them at authorized Federal projects. Unless specifically authorized by Congress, reimbursement for work commenced by local interests subsequent to 13 August 1969 is to be made in accordance with these authorities. Amended by Section 913, P.L. 99-662. Implementing policies and procedures can be found in ER 1165-2-18.

11. P.L. 92-583 (1972). Section 307 of the Coastal Zone Management Act requires all Federal agencies with activities directly affecting the coastal zone, or with development projects within that zone, to assure that those activities or projects are consistent with the approved State program.

12. P.L. 93-251 (1974).

a. Section 27 raised the cost limits for emergency bank protection projects to \$250,000 and program fiscal funding limit to \$10 million per year. Project purpose was extended to cover construction, repair, restoration and modification of emergency streambank and shoreline protection works. Eligibility definition was extended to include churches, hospitals, schools and similar non-profit public services. Amended by Section 915(c) of P.L. 99-662.

b. Section 55 authorizes the provision of technical and engineering assistance to non-Federal public interests in developing structural and nonstructural methods of preventing damages attributable to beach erosion.

13. P.L. 94-587 (1976).

a. Section 145 authorizes the Secretary of the Army, acting through the Chief of Engineers, to place beach-quality sand obtained from construction and maintenance dredging of navigation inlets onto adjacent beaches, providing such placement is requested by the interested State Government, is in the public interest, and local interests pay 100 percent of any increased costs above the cost required for alternative methods of disposing of such sand that would be used in the absence of beach disposal. Amended by Section 933, P.L. 99-662.

b. Section 156 authorizes the Secretary of the Army, acting through the Chief of Engineers, to extend Federal participation in periodic beach nourishment, where such nourishment has been authorized for a limited period, up to 15 years from the date of initiation of construction. Amended by Section 934, P.L. 99-662.

14. P.L. 97-348 (1982). Establishes policy that coastal barrier islands and their associated aquatic habitats are to be protected by restricting Federal expenditures which have the effect of encouraging development of coastal barriers. The Act provides for a Coastal Barrier Resources System (the extent of which is defined by a set of maps approved by Congress on 30 September 1982) which identifies undeveloped coastal barriers within which Federal expenditures (including expenditures for flood insurance, roads, bridges, shoreline structures) may not be made. Specific exceptions to the expenditure prohibition include navigation, beach nourishment, and research works.

15. P.L. 99-662, Water Resources Development Act (WRDA) of 1986.

a. Section 101(c) provides that costs of constructing projects or measures for the prevention or mitigation of erosion or shoaling damages attributable to Federal navigation works shall be shared in the same proportion as the cost sharing provisions applicable to the project causing such erosion or shoaling. The non-Federal interests for the project causing the erosion or shoaling shall agree to operate and maintain such measures. Also see Section 940 of P.L. 99-662 (page B-5).

b. Section 103(d) specifies that the costs of constructing projects for beach erosion control must be assigned to selected project purposes such as hurricane and storm damage reduction, and/or recreation. Cost sharing for these project purposes is specified in Section 103(c). However, all costs assigned to benefits to privately-owned shores (where use of such shores is limited to private interests), or to prevention of losses of private lands are a non-Federal responsibility. All costs assigned to protection of Federally-owned shores are a Federal responsibility.

ER 1165-2-130
15 Jun 89

c. Section 103(i) specifies that non-Federal interests shall provide all lands, easements and rights-of-way, and disposal areas required and perform all necessary relocations (LERRD). The value of LERRD is credited to the non-Federal share of the project cost.

d. Section 501 authorizes construction and preconstruction planning, engineering, and design (PED) of various projects for shoreline protection, beach erosion control, shore and hurricane wave protection, and beach erosion control and hurricane protection, subject to various conditions such as determination that construction will be in compliance with the Coastal Barrier Resources Act (P.L. 97-348).

e. Section 502 directs the Secretary of the Army to apply the cost sharing provisions of Section 31(1), P.L. 93-251, to periodic nourishment of the continuing construction project at Westhampton Beach, New York, for a period of 20 years after 17 November 1986.

f. Section 706 (Great Lakes Levels Study) authorizes the Secretary of the Army, to conduct a cooperative study of shoreline protection and beach erosion control policy and related projects of the Secretary in view of existing high lake levels and long-term expected increases in the levels of the Great Lakes.

g. Section 713 (Louisiana Shoreline Erosion Study) authorizes the Secretary of the Army to conduct a nearshore sediment inventory to determine availability of suitable sediment in the offshore waters of Louisiana between Southwest Pass and Sabin Pass, and in Lake Pontchartrain and in Lake Borgne, and to determine the feasibility of specific measures to diminish shoreline erosion, marsh deterioration, salt water intrusion, hurricane vulnerability, and barrier island destruction and to carry out reasonable planning efforts that require suitable sediment for nourishment.

h. Section 731 (Study of Rising Oceans) authorizes the Secretary of the Army to conduct a cooperative study of shoreline protection and beach erosion control policy and related projects of the Secretary in view of the prospect for long-term increases in the levels of the ocean.

i. Section 732 (Shoreline Erosion Damage on Lake Superior) directs the Secretary of the Army to determine the extent of shoreline erosion damage in the United States causally related to the regulation of the waters of Lake Superior by the International Joint Commission United States and Canada subsequent to an emergency application by the United States made on 26 January 1973.

j. Section 913 increases Federal reimbursement up to \$3 million for work accomplished under Section 215(a) of P.L. 90-483.

k. Section 915(c) increases the Federal limits up to \$500,000 for participating in emergency shoreline protection of public works (Section 14) projects. Section 915(e) increases the Federal limits up to \$2 million for participating in small beach erosion control (Section 103) projects. Section 915 (f) increases the Federal limits up to \$2 million for participating in mitigation of shore damage attributable to Federal navigation works (Section 111) projects. Section 915 (h) of P.L. 99-662 authorizes use of the Section 103 (P.L. 87-874) and Section 111 (P.L. 90-483) authorities in the Trust Territory of the Pacific Islands.

l. Section 925 (Compilation of Laws) directs the Secretary of the Army to compile and publish the laws of the United States relating to beach erosion and other water resources development enacted after 8 November 1966 and before 1 January 1987.

m. Section 933 increases to 50 percent the proportion that may be borne by the Federal Government of the additional costs, above that required for alternative methods for disposal, for placement of material dredged during the construction and maintenance of navigation inlets onto adjacent beaches.

n. Section 934 increases to 50 years the authorized period of time Federal participation can be extended in periodic beach nourishment after the date of initiation of construction.

o. Section 935 authorizes the Secretary of the Army to acquire fill material for beach erosion and beach nourishment by purchase, exchange, or otherwise from nondomestic sources for authorized water resources projects needing such materials, if they are not available from domestic sources for environmental or economic reasons.

p. Section 940 increases the Federal cost limits for participating in mitigation of shore damage caused by Federal navigation works to \$2 million, and requires a non-Federal public body to operate and maintain such measures. Structural and non-structural measures can be implemented under the Section 111 authority of P.L. 90-483, and implementation costs will be shared in the same proportion as the cost-sharing provisions applicable to the original project, including projects constructed at full Federal expense.

16. P.L. 100-676, Water Resources Development Act (WRDA) of 1988. Section 14 amends Section 402 of the 1986 WRDA to require non-Federal interests to agree to participate in and comply with applicable Federal flood plain management and flood insurance programs before construction of any hurricane and storm damage reduction project.

HURRICANE AND ABNORMAL TIDAL FLOOD PROTECTION

1. P.L. 84-71 (1955). Authorizes the Secretary of the Army, in cooperation with the Secretary of Commerce and other Federal agencies concerned with hurricanes, to make studies of the Atlantic and Gulf coasts of the United States to secure data on the behavior and frequency of hurricanes and to determine means of preventing loss of life and damages to property. This Act does not specify any cost sharing for construction of protective works.
2. P.L. 84-99 (1955). Authorizes the Chief of Engineers to provide emergency protection to threatened Federally authorized and constructed hurricane and shore protection works, and to repair or restore such works damaged or destroyed by wind, wave, or water action of other than an ordinary nature.
3. P.L. 85-500 (1958). Section 203 added provisions of local cooperation to three hurricane flood protection projects authorized under this Act: non-Federal interests were required to assume 30 percent of total first costs, including the value of lands, easements and rights-of-way, and to operate and maintain the projects.
4. P.L. 91-611 (1970). Section 208 authorized Federal participation in hurricane protection projects up to 70 percent of the total cost exclusive of land costs.
5. P.L. 99-662 (1986). Section 103(c)(5) requires non-Federal interests to assume 35 percent of the cost assigned to the hurricane and storm damage reduction purpose of a project.
6. P.L. 100-676, Water Resources Development Act (WRDA) of 1988. Section 14 amends Section 402 of the 1986 WRDA to require non-Federal interests to agree to participate in and comply with applicable Federal flood plain management and flood insurance programs before construction of any hurricane and storm damage reduction project.

LAKE FLOOD PROTECTION. The Federal interest in projects for lake flood protection is not clearly defined by legislation.

1. Section 401(e)(4), P.L. 99-662, authorizes the Secretary of the Army to construct dikes along the west side of the Great Salt Lake, Utah, which rose above record levels in June 1986. These dikes are part of a State plan to control lake level and flood damages. The non-Federal share of the cost of those authorized dikes is specified as 25 percent in the Act.
2. Section 706, P.L. 99-662, authorizes the Secretary of the Army to conduct a cooperative study of shoreline protection and beach erosion control policy and related projects of the Secretary in view of the situation in 1986 and expected long-term increases in the levels of the Great Lakes. This study will include recommendations for new or additional criteria for Federal participation in shoreline protection projects along the Great Lakes and connecting channels.