

113TH CONGRESS
1ST SESSION

H. R. 399

To direct the Secretary of the Army to undertake a comprehensive review of the Corps of Engineers policy guidelines on vegetation management for levees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2013

Ms. MATSUI (for herself, Mr. GARAMENDI, Mr. GEORGE MILLER of California, Mr. GARY G. MILLER of California, Mr. CÁRDENAS, Mr. THOMPSON of California, Ms. LOFGREN, Mr. COSTA, Mrs. NAPOLITANO, Mrs. CAPPS, Ms. ESHOO, Mr. HONDA, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. FARR, Ms. LEE of California, Mrs. NEGRETE MCLEOD, Ms. ROYBAL-ALLARD, Mrs. DAVIS of California, Ms. BASS, Mr. WAXMAN, Ms. HAHN, Ms. CHU, Mr. BERA of California, Mr. MCNERNEY, and Mr. CALVERT) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To direct the Secretary of the Army to undertake a comprehensive review of the Corps of Engineers policy guidelines on vegetation management for levees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Levee Vegetation Re-
5 view Act of 2013”.

1 **SEC. 2. FLOOD CONTROL POLICY.**

2 (a) REVIEW.—In order to determine whether current
3 Federal policy relating to levee vegetation is appropriate
4 for all regions of the United States, the Secretary of the
5 Army shall undertake a comprehensive review of the Corps
6 of Engineers policy guidelines on vegetation management
7 for levees (in this section referred to as the “guidelines”).
8 The Secretary shall commence the review not later than
9 6 months after the date of enactment of this Act.

10 (b) FACTORS.—

11 (1) IN GENERAL.—In conducting the review,
12 the Secretary shall examine the guidelines in view
13 of—

14 (A) the varied interests and responsibilities
15 in managing flood risks, including the need to
16 provide the greatest levee safety benefit with
17 limited resources;

18 (B) preserving, protecting, and enhancing
19 natural resources, including the potential ben-
20 efit that vegetation on levees can have in pro-
21 viding habitat for species of concern;

22 (C) protecting the rights of Native Ameri-
23 cans pursuant to treaties and statutes; and

24 (D) such other factors as the Secretary
25 considers appropriate.

1 (2) REGIONAL AND WATERSHED CONSIDER-
2 ATIONS.—In conducting the review, the Secretary
3 shall specifically consider factors that promote and
4 allow for consideration of potential variances from
5 national guidelines on a regional or watershed basis.
6 Such factors may include regional or watershed soil
7 conditions, hydrologic factors, vegetation patterns
8 and characteristics, environmental resources, levee
9 performance history, institutional considerations,
10 and other relevant factors. The scope of a variance
11 approved by the Secretary may include an exemption
12 to national guidelines where appropriate.

13 (c) COOPERATION AND CONSULTATION; REC-
14 COMMENDATIONS.—

15 (1) IN GENERAL.—The review shall be under-
16 taken in cooperation with interested Federal agen-
17 cies and in consultation with interested representa-
18 tives of State and local governments, Native Amer-
19 ican Indian tribes, appropriate nongovernmental or-
20 ganizations, and the public.

21 (2) RECOMMENDATIONS.—Corps of Engineers
22 Regional Integration Teams, representing districts,
23 divisions, and headquarters, in consultation with
24 State and Federal resources agencies, and with par-
25 ticipation by local agencies, shall recommend to the

1 Chief of Engineers vegetation management policies
2 for levees that conform with State and Federal laws
3 and other applicable requirements.

4 (d) PEER REVIEW.—

5 (1) VIEWS OF NATIONAL ACADEMY OF ENGI-
6 NEERING.—As part of the review, the Secretary
7 shall solicit and consider the views of the National
8 Academy of Engineering on the engineering, envi-
9 ronmental, and institutional considerations under-
10 lying the guidelines.

11 (2) AVAILABILITY OF VIEWS.—The views of the
12 National Academy of Engineering obtained under
13 paragraph (1) shall be—

14 (A) made available to the public; and

15 (B) included in supporting materials issued
16 in connection with the revised guidelines re-
17 quired under subsection (e).

18 (e) REVISION OF GUIDELINES.—

19 (1) IN GENERAL.—Not later than 2 years after
20 the date of enactment of this Act, the Secretary
21 shall—

22 (A) revise the guidelines based on the re-
23 sults of the review, including the results of the
24 peer review conducted under subsection (d); and

1 (B) submit to Congress a report that con-
2 tains a summary of the activities of the Sec-
3 retary and a description of the findings of the
4 Secretary under this section.

5 (2) CONTENT; INCORPORATION INTO MAN-
6 UAL.—The revised guidelines shall—

7 (A) provide a practical process for approv-
8 ing regional or watershed variances from the
9 national guidelines, reflecting due consideration
10 of measures to maximize public safety benefits
11 with limited resources, regional climatic vari-
12 ations, environmental quality, implementation
13 challenges, and allocation of responsibilities;
14 and

15 (B) be incorporated into the manual pro-
16 posed under section 5(c) of the Act entitled “An
17 Act authorizing the construction of certain pub-
18 lic works on rivers and harbors for flood con-
19 trol, and for other purposes”, approved August
20 18, 1941 (33 U.S.C. 701n(c)).

21 (f) CONTINUATION OF WORK.—Concurrent with
22 completion of the requirements of this section, the Sec-
23 retary shall proceed without interruption or delay with
24 those ongoing or programmed projects and studies, or ele-

- 1 ments of projects or studies, that are not directly related
- 2 to vegetation variance policy.

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