

**Talking Points on Proposed Changes to PL 84-99**  
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Overview of Opposition to Proposed Rule Changes to PL 84-99

It is imperative that PL84-99 return to the pre 2008 methodology of repairing flood damaged flood works to pre-flood conditions. This speeds repair work as the repair can easily match upstream and downstream conditions to allow quick in field decision making and repairs. After the 1993 flood, PL84-99 repair work was completed within 6 months. Now, under current methodology, decisions get delayed and repair work is delayed. There are instances of repair work still not complete post 2019 flood—taking 3 years! This is totally unacceptable and puts federal works in serious danger and at higher risk for secondary flood event failures.

The greatest concern with the new PL 84-99 rule is the inequitable treatment of riverine levees compared to coastal levees. The proposed rule allows for repair to riverine levees at the discretion of the Corps, as opposed to coastal levees that, by rule, must be repaired to the greater of the pre-flood or design level of protection. UMIMRA and the 140 levee districts in the Upper Mississippi along our navigable waterways will not stand for this discrimination.

Specific Talking Points

1. The Corps lacks authority through PL84-99 to impose broad floodplain management duties on levee sponsors and communities to be eligible to participate in the PL84-99 Program. Levee Districts should not be expected to police the floodplain they protect. The intent of the levee rehab program (PL84-99) is to repair and rehabilitate levees damaged by floods. Congress has not changed the statutes to make these proposed floodplain duties part of the program.
2. PL84-99 is focused on emergency response to damaged flood infrastructure, including levees, and the related danger to the health and safety of those protected by those works. Congress makes emergency appropriations to the program to meet the emergency needs. Tying eligibility to the proposed floodplain management responsibilities has nothing to do with the emergency nature of the program's purpose, and most certainly will further slow delivery of emergency repairs.
3. Eligibility in the PL84-99 should remain dependent on levees readiness and ability to protect the area and communities in its area of protection. Eligibility should not be tied to other floodplain management activities, which have nothing to do with a levee's readiness and ability to perform.
4. The proposed rules place burdens on levee sponsors, both financially and legally, which the Corps fails to acknowledge in this proposed rulemaking. Complying with the proposed burdens will take money away from other more important responsibilities of sponsors. With scarce resources, sponsors cannot afford to properly maintain and manage levees as their budgets to do so shrinks with the new proposed requirements. Levee sponsors have limited state authority as political subdivisions which may prevent them

from implementing the burdensome changes proposed. Regulating and policing the floodplain falls far outside sponsors' authority.

5. The continued additions of more and more responsibilities and burdens being placed on sponsors may cause many to leave the program. The costs and demands on sponsors are becoming too high. In some cases, sponsors can get the repairs done on their own at less cost than their share of the federal contract cost-share. The PL84-99 program looks less and less helpful and more costly and difficult than it is worth. The long-term impacts of sponsors leaving the program will likely have negative impacts on neighboring levees as well.
6. PL84-99 eligibility should have nothing to do with the frequency or intensity of weather events. Levees need to be ready and able to protect regardless of the weather condition or intensity of the event. Levees provide protection under all conditions and the principles of flood control don't change with the weather. Eligibility should be dependent on the levee's readiness and ability to perform. Extreme weather events only emphasize the need to repair levees more quickly and efficiently to provide protection from the next flood event.
7. It appears, with these new proposed changes, the Corps is moving from a voluntary levee safety program and collaborating with sponsors to imposing its will on sponsors by coercion. Threatening sponsors by forcing them to accept responsibilities outside their financial ability and legal authority is disturbing and detrimental to the program designed by Congress to be helpful.
8. The proposed rules are outside the intent of Congress, burdensome to levee sponsors and outside the authority the Corps has within Public Law 84-99.
9. We are especially concerned with language in the proposal that indicates that while hurricane and shore protection projects will be repaired or restored to the pre-flood condition or the design level of protection, that the Corps will use their discretion to determine the level of protection or condition to which riverine levees will be repaired.
10. We also note that the Corps expressly states that the local sponsor may not make the repair under PL 84-99 and be eligible for reimbursement. However, since Congress has allowed the non-federal sponsor to study, design and construct flood projects in accordance with Corps requirements and receive reimbursement, it would seem appropriate, and most expeditious, to allow those non-federal sponsors to also repair those systems—something we hope to be considered.