



TO: U.S. Army Corps of Engineers  
FROM: Julie Ufner, National Waterways Conference  
RE: **Docket COE–2021–0008:** Request for Extension of Public Comment Period for Notice of Proposed Rulemaking “Natural Disaster Procedures: Preparedness, Response, and Recovery Activities of the Corps of Engineers”  
DATE: December 13, 2022

This is in response to the notice published in the Federal Register on November 15, 2022, seeking comments on the above-referenced Notice of Proposed Rulemaking, in which the U.S. Army Corps of Engineers (Corps) is proposing to revise its natural disaster procedures under Section 5 of the Flood Control Act of 1941, as amended (33 U.S.C. 701n; commonly referred to as “P.L. 84-99”) (Notice). According to the Notice, comments must be submitted by January 17, 2023. (87 Fed. Reg. 68386.)

**The National Waterways Conference (NWC) respectfully requests a 90-day extension to the public comment period for the Corps’ proposed rulemaking on natural disaster procedures under P.L. 84-99.**

Our members are concerned that the January 17, 2023, deadline for comments does not leave them with enough time to adequately review and thoughtfully comment on the multitude of proposed revisions to the subject regulations.

The NWC was established in 1960 and is dedicated to a greater understanding of the wider public benefits of our Nation’s water resources infrastructure. Conference membership is diverse and includes the full spectrum of water resources stakeholders, including flood control associations, levee boards, waterways shippers and carriers, industry and regional associations, hydropower producers, port authorities, shipyards, dredging contractors, regional water supply districts, engineering consultants, and state and local governments. Many of our members are non-Federal sponsors on Corps projects, and own and maintain water resources infrastructure including levees and other flood reduction structures that will be directly impacted by the changes in the proposed rule.

The NWC notes that the Corps’ Website states: “Proposed changes to the Federal regulation will be published in the Federal Register for a 90-day public comment period, through which interested parties can provide input prior to the development of the final rule.” (See <https://www.usace.army.mil/Missions/Emergency-Operations/pl-84-99/> (“Updating Federal Regulation 33 CFR Part 203”)(emphasis added).) This is inconsistent with the Notice, in which the Corps is short-changing interested parties by providing them

NWC memo on Docket No. COE-2021-0008

Extension of comment period request

December 13, 2022

Page 2

with only 60 (instead of at least 90) days to submit comments on the proposed rule. The Corps needs to correct this deficiency by extending the public comment period for the rule.

In addition, the rule proposes to incorporate risk-informed decision-making approaches and other substantive changes to disaster response procedures under the P.L. 84-99 program. Many of the NWC's members have concerns about the proposed rule's numerous significant changes from current procedures, including concerns about the availability and reliability of data that would be used for risk-informed decision-making. Consequently, we request additional time to analyze, disseminate, and share our findings.

Further, the deadline for the submission of comments is too close to the Corps' last outreach sessions in mid-January 2023 to enable interested parties to benefit from the information provided in those sessions and provide meaningful comments. The Corps is not facing any specific legal deadlines for this rulemaking (see *Reginfo.gov* entry for RIN: 0710-AA78, at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=0710-AA78> ("Legal Deadline: None")), so there is no credible reason why the Corps should not provide interested parties with adequate additional time so they can benefit from the information provided in the outreach sessions when analyzing and commenting on the proposed rule.

Thank you for your consideration. We look forward to partnering with the Corps on this rulemaking. For more information or questions, please contact Julie Ufner, NWC President and CEO, at 202.203.4795 or by email at [julie@waterways.org](mailto:julie@waterways.org).