

Public Law 84-99 Program Basics and Updates

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Agenda and Outcomes

PL 84-99 Program Basics and Update

AGENDA:

- Background and History of P. L. 84-99
- Governing Laws and Regulations
- USACE Authorities and Activities Under P. L. 84-99
- Program Updates

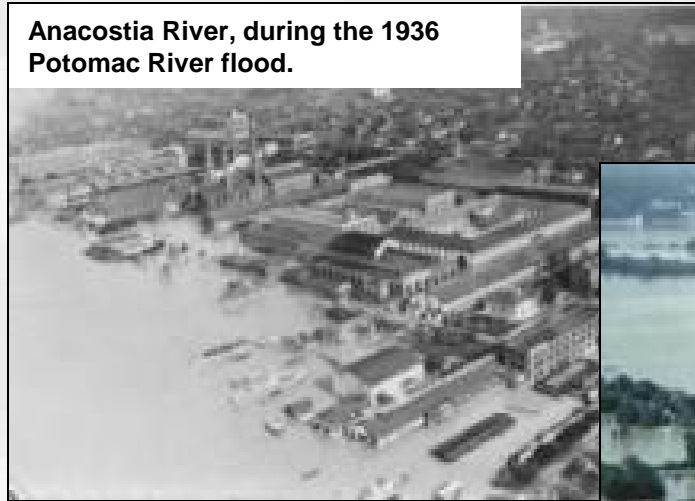
OUTCOMES:

- ✓ An understanding of the governing laws and regulations for implementing P. L. 84-99
- ✓ An understanding of the basic authorities and activities conducted under P. L. 84-99
- ✓ Understanding of draft policy changes to PL84-99



Background and History

PL 84-99 Program Basics and Update



Confluence of the Missouri and Mississippi Rivers, 1993



Mississippi River, 1927



Galveston, Texas, 1900



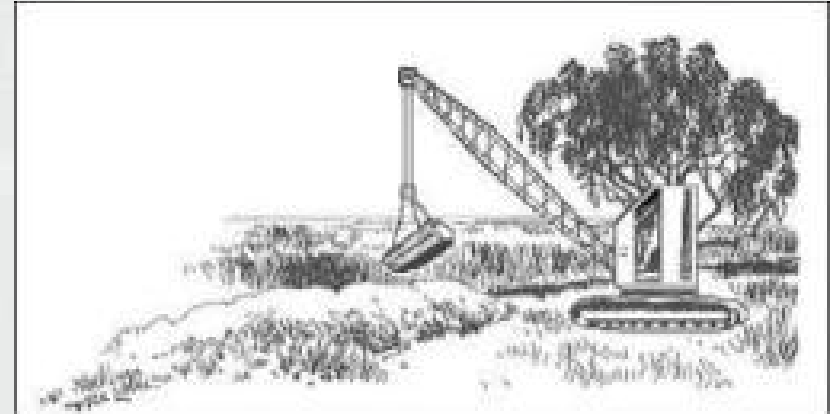
Ohio River, 1937

Swamp Land Acts 1849 & 1850

PL 84-99 Program Basics and Update

The sentiment in Congress during the middle of the 19th century was that public domain had little value until it became settled, thereby ceasing to be public domain. Wetlands were actually considered a menace and hindrance to land development.

As first passed (1849), the Swamp Land Act granted to Louisiana all swamp and overflow lands then unfit for cultivation, the object being to help in controlling floods in the Mississippi River Valley. In 1850, the act was made applicable to the other 12 public-domain States. In 1860, its provisions were extended to Minnesota and Oregon.



The original purpose of the grants was to enable the States to reclaim their wetlands by the construction of levees and drains. States would ultimately sell those lands to private citizens and use those payments to fund reclamation efforts and levee building. The States were supposed to carry out a program of reclamation that not only would lessen destruction caused by extensive inundations but also would eliminate mosquito-breeding swamps.



1882 Flood on the Mississippi

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- In the spring of 1882 virtually the entire alluvial valley of the Mississippi River below Cairo, Illinois, was inundated by two flood waves: the first crested at Cairo on 3 February and the second on 23 February.
- First official Corps of Engineers disaster mission in 1882 .
- The 1882 Rivers and Harbors Act included \$5.4 million for the Mississippi River Commission.
- For the rest of the century, federal appropriations for rivers and harbors rose from \$8,000,000 in 1880 to \$29,000,000 in 1898.



THE NAVY MAKING THE FEDERAL GOVERNMENT'S PROTECTION FROM THE TROUBLE.
ESTABLISHED UNDER MANAGER.

HARPER'S WEEKLY

The Mississippi River Valley in the Southern states, where levees had been damaged by the Civil War, experienced severe flooding in 1865, 1867, 1874, and 1882. The latter was the most severe, and is depicted in this *Harper's Weekly* cartoon by Thomas Nast.



First Federal Flood Control Legislation

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- Floods on the Mississippi, Ohio, and other rivers in the Northeast between 1907 and 1913 led to the **Flood Control Act of 1917**, which was the first act aimed exclusively at controlling floods.
- It was enacted to control floods on the Mississippi River, the Ohio River, and the Sacramento River, not to exceed in the aggregate \$45,000,000, with not more than \$10,000,000 during any one fiscal year.
- The Flood control Act of 1917 provided for levee construction and established the first cost sharing policy (\$2 federal to \$1 local).
- Levees turned over to the levee districts for maintenance.



Significant Federal Legislation

PL 84-99 Program Basics and Update

- 1927 Rivers and Harbor Act:
 - Authorized the Corps to conduct surveys for navigation
- 1928 Flood Control Act:
 - Expanded flood control policy on the Mississippi to include floodways, spillways and channel improvements - a comprehensive approach.
- 1936 Flood Control Act:
 - Recognized that flood control was a “proper activity of the federal government in cooperation with states and their localities”.



Significant Federal Legislation

PL 84-99 Program Basics and Update

- Flood Control Act of 1941:
 - Authorization to repair or maintain flood control works threatened or destroyed by flood.
 - Subsequent changes over the following years provided for establishing funding categories while further defining our authority:
 - (1955) Preparedness Planning Flooding
 - (1962) Hurricane Shore Protection Project
 - (1974) Contaminated Water Supply
 - (1976) Advance Measures
 - (1977) Drought Response
 - (1979) Hazard Mitigation
 - (1986) Post Flood Response
 - (1990) Expanded Preparation to “All Natural Hazards”



Governing Laws and Regulations

PL 84-99 Program Basics and Update

Law:

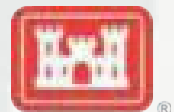
33 USC Section 701n. (P. L. 84-99) as implemented by
33 CFR Part 203

Operational Policies:

ER 500-1-1, Civil Emergency Management Program
ER 1130-2-530, Flood Control Operations and Maintenance

Funding Policy:

ER 11-1-320, Civil Works Emergency Management Program



PL84-99 Authorities and Activities

PL 84-99 Program Basics and Update

- **Disaster Preparation**
- **Emergency Operations**
- **Rehabilitation**
- **Emergency Water Assistance**
- **Advance Measures**
- **Hazard Mitigation**

P.L. 84-99

Preparedness funding is budgeted annually. HQUSACE Provides Funding for all other PL 84-99 Activities on Request from Major Subordinate Commands for Each Specific Event



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PL84-99 Authorities and Activities

PL 84-99 Program Basics and Update

- **Disaster Preparation**

- **Emergency Operations**

- **Rehabilitation**

- **Emergency Water Assistance**

- **Advance Measures**

- **Hazard Mitigation**

- **Planning for Quick and Effective Response**
- **Training**
- **Stockpiling Supplies and Critical Flood Fight Materials**
- **Public Assistance Including Liaison, Coordination, and Inspections**



Preparedness

PL 84-99 Program Basics and Update

- **Planning:**
 - Must address Preparedness, Response, and Recovery phases in order to manage expectations
- **Training and Exercises:**
 - Hone our skills to be better prepared to respond and incorporate lessons learned
- **Facilities, Supplies and Equipment:**
 - Equipped Emergency Operation Centers and adequate flood fight materials
- **Inspection Program:**
 - Federal and non-Federal in coordination with Levee Safety
- **Coordination:**
 - Must build internal and external relationships
- **Assistance to Tribal, State and local entities:**
 - Supplement requirements when necessary



PL84-99 and National Response Framework

PL 84-99 Program Basics and Update

- We are supplemental to State and Local efforts as well as Tribal requests.
- Direct support:
 - Sandbags
 - Pumps
 - Other flood fight supplies
 - Technical Assistance
 - Contract efforts
- Mission Assigning USACE is NOT required for Direct Support for flood fight efforts.

**P.L. 93-288
Stafford Act**



Support to FEMA:

- We train and exercise for FEMA Missions.
- FEMA can Mission Assign USACE under the NRF.



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PL84-99 Authorities and Activities

PL 84-99 Program Basics and Update

- Disaster Preparation

- Emergency Operations

- Rehabilitation

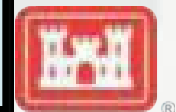
- Emergency Water Assistance

- Advance Measures

- Hazard Mitigation



- Field Investigation & Reconnaissance of Flood Potential
- Flood Fighting
 - Technical Assistance
 - Rescue Operations
 - Furnishing Materials
 - Contracting for Emergency Construction
- Post Flood Response
 - Emergency Debris Removal
 - Temporary Restoration of Critical Transportation Routes and Public Services and Utilities
 - After Action Review & Reporting



Flood Fight Authorities

PL 84-99 Program Basics and Update

- ✓ Technical Assistance - consists of providing review and recommendations in support of Tribal, State and local efforts, and helping to determine feasible solutions to unusual situations.
- ✓ Direct Assistance:
 - ▶ Issuing supplies
 - Sandbags, plastic sheeting, etc.
 - ▶ Loan of equipment
 - Pumps, sandbag filling machines, etc.
 - ▶ Rescue operations
 - ▶ Manage flood fight operations
 - Requested by appropriate state or local officials
 - Legal responsibility remains with state or local officials
 - Limited to technical assistance on purely agricultural levees
 - ▶ Contingency contracting



Flood Fight Authorities

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HESCOs on Levee



Traditional Sandbagging



PL84-99 Authorities and Activities

PL 84-99 Program Basics and Update

- Disaster Preparation

- Emergency Operations

- Rehabilitation

- Emergency Water Assistance

- Advance Measures

- Hazard Mitigation

- Repair any active flood risk management project & consideration of non-structural alternatives
- Repair any Federally constructed coastal storm damage reduction projects



Rehabilitation Program

PL 84-99 Program Basics and Update

- Repair of “Active” flood risk management projects damaged or destroyed by floods, and Federally authorized and constructed coastal storm damage reduction structures damaged or destroyed by wind, wave, or water action of an other than ordinary nature.
- The intent of this program is to ensure that damaged flood risk management projects are operationally effective prior to the next flood season.



PL84-99 Authorities and Activities

PL 84-99 Program Basics and Update

- Disaster Preparation
- Emergency Operations
- Rehabilitation
- **Emergency Water Assistance**
- Advance Measures
- Hazard Mitigation



- Provide Clean Water Supply Due to Water Source Contamination
- Provide Assistance Due to Drought
 - Covers Well Drilling (Reimbursable)
 - Transportation (Not Supply) of Water Resources at Federal Expense



Emergency Water Assistance

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- **There are basically two authorities under P.L. 84-99 in which USACE can provide assistance:**
 - ✓ We can provide a clean water supply due to water source contamination; and
 - ✓ We can provide assistance due to drought*
- **There is a formal process in which the Tribal, State, and/or local entity must ask for assistance to include preparation of a Project Information Report.**
- **USACE may provide temporary emergency water assistance for human consumption and/or usage to a drought distressed area to meet minimum public health and welfare requirements.**



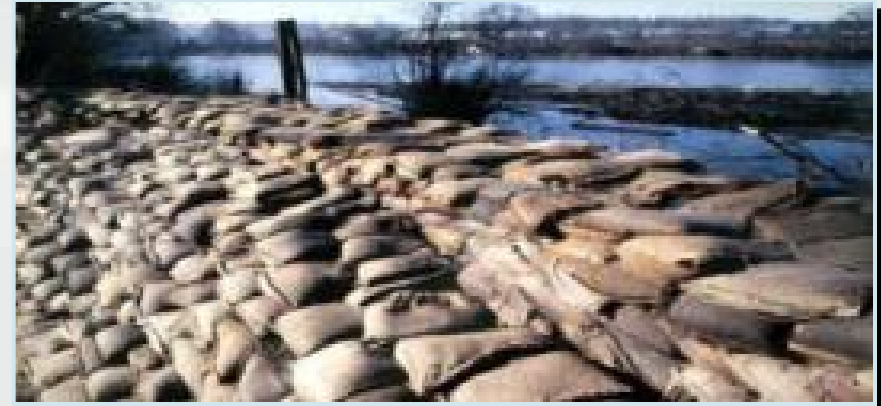
* A drought distressed area must be determined by the Deputy Commanding General for Civil Emergency Operations.



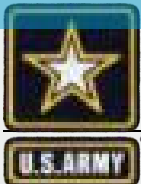
PL84-99 Authorities and Activities

PL 84-99 Program Basics and Update

- Disaster Preparation
- Emergency Operations
- Rehabilitation
- Emergency Water Assistance
- Advance Measures
- Hazard Mitigation



- Preventive Temporary Works Executed Prior to Predicted Unusual Flooding
- Examples:
 - Creating a Ring Levee Around Critical Facilities
 - Adding Height or Reinforcing Existing Levees



Advance Measures

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- Advance Measures are performed due to an imminent threat of unusual flooding for protection against loss of life and damages to urban areas and/or public facilities.
- Advance Measures assistance may only be provided prior to a flood, hurricane, coastal storm, or a storm on an inland body of water or a closed basin flood.
- The threat must be established either by National Weather Service (NWS) forecasts or by USACE determination of unusual flooding from adverse conditions.



PL84-99 Authorities and Activities

PL 84-99 Program Basics and Update

- Disaster Preparation
- Emergency Operations
- Rehabilitation
- Emergency Water Assistance
- Advance Measures
- Hazard Mitigation



- Identify Mitigation Opportunities
- Establish Framework for Recovery
- Silver Jackets Program Coordination
- Interagency Levee Task Force/NSA



Hazard Mitigation

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- The term Hazard Mitigation has been redefined as Hazard Risk Management.
- Hazard Risk Management is a process for identifying, assessing, and prioritizing risks of different kinds. In that regard, the USACE hazard risk management program must assess the risk (such as floods, earthquakes, hurricanes, tornados, blizzards, wildfires, volcanic eruptions, drought, etc.) and vulnerability of people, property, the environment, and its own project operations, and must have a strategy to respond to those risks, to include mitigating or reducing the threat.



Rehabilitation Program Updates

PL 84-99 Program Basics and Update

INTERIM POLICY – WHY

- **Life Safety is paramount. Life risk drives prioritization**
- **National emphasis on risk-informed decision making, transparent communication, and long-term sustainability.**
- **Synchronize the program with USACE's approach to shared responsibility for flood risk management**
- **Revision of eligibility criteria to promote broader flood risk management activities**



Rehabilitation Program Updates

PL 84-99 Program Basics and Update

Interim Policy

- New Policy issued **21 Mar 2014** applies only to Levee Systems
- Purpose is to allow eligibility determinations to continue while new policy is developed and work to avoid incentivizing public sponsors to take action that may negatively impact natural resources
- Vegetation on levees is no longer a criteria for ***eligibility***



Rehabilitation Program Updates

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Eligibility Criteria for Levee Systems:

- The inspection checklist (Enclosure 2 of the policy document) has not changed.
- Interim eligibility criteria for levee systems are a subset (**18 items**) of existing inspection checklist. This subset of inspection items are those most directly related to levee performance.
- Must receive a Minimally Acceptable or Acceptable on all 18 interim eligibility inspection items to remain Active or initial acceptance.
- Overall inspection rating will still be determined and communicated to sponsor, but **not linked to eligibility**.



Rehabilitation Program Updates

PL 84-99 Program Basics and Update

18 Eligibility Criteria for Levee Systems:

▪ Levee Embankments

- 3. Encroachments
- 4. Closure Structures
- 5. Slope Stability
- 6. Erosion/Bank Caving
- 10. Animal Control
- 11. Culverts/Discharge Pipes
- 14. Under seepage

▪ Floodwalls

- 2. Encroachments
- 3. Closure Structures
- 5. Tilting, Sliding, Settlements
- 6. Foundation of Concrete
- 8. Under seepage Relief Wells/Toe
Drainage system

▪ Interior Drainage Structures

- 9. Culverts
- 10. Sluice/Slide Gates
- 11. Flap gates/flap valves

▪ Pump Stations

- 17. Intake and Discharge Pipelines
- 18. Sluice/Slide Gates
- 19. Flap Gates/Flap Valves



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Rehabilitation Program Updates

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Eligibility Criteria for Levee Systems:

An **Unacceptable** rating on any of the **18 subset** of items will result in a levee system being put in **Inactive** status.

It is possible for a system to:

- Receive an **Unacceptable** system rating but determined to be **Active** in the Rehabilitation Program
- Receive a Minimally **Acceptable** system rating but determined to be **Inactive** in the Rehabilitation Program

Levee systems comprised of more than one levee segment, all segments must meet the interim eligibility criteria for the levee system to be Active.



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Active vs. Inactive Levee System

- **Unacceptable** system rating but **Active** in the Rehabilitation Program
 - **18 Eligibility** criteria all **acceptable** or minimally acceptable
 - Other eligibility criteria are **unacceptable**, 33 non-status criteria
- **Acceptable** system rating but **Inactive** in Rehabilitation Program
 - Any of the **18 Eligibility** criteria are **unacceptable**
 - Other Eligibility criteria are **acceptable**, 33 non-status criteria



Rehabilitation Program Updates

PL 84-99 Program Basics and Update

Where Are We Now

- Advance Notice of Rule Making Closed 15 April 2015
- ER 500-1-1 Under development
- About 1 year is predicted for final guidance



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