



August 2, 2022

Submitted electronically via:

[www.regulations.gov](http://www.regulations.gov)

usarmy.pentagon.hqda-asa-cw.mbx.asa-cw-reporting@army.mil

Stacey M. Jensen

Office of the Assistant Secretary of the Army (Civil Works)

108 Army Pentagon

Washington, DC 20310-0108

Subject: Docket ID No. COE-2022-0006, Notice of Virtual Public and Tribal Meetings Regarding the Modernization of Army Civil Works Policy Priorities; Establishment of a Public Docket; Request for Input

Dear Ms. Jensen:

The Petroleum Alliance of Oklahoma (The Alliance) appreciates the opportunity to submit comments to the Corps of Engineers (COE) regarding Docket ID No. COE-2022-0006, Notice of Virtual Public and Tribal Meetings Regarding the Modernization of Army Civil Works Policy Priorities; Establishment of a Public Docket; Request for Input (RFI).

The Petroleum Alliance of Oklahoma represents more than 1,300 individuals and member companies and their tens of thousands of employees in the upstream, midstream, and downstream sectors and ventures ranging from small, family-owned businesses to large, publicly traded corporations. Our members produce, transport, process and refine the bulk of Oklahoma's crude oil and natural gas.

The Alliance's members may be directly impacted by any proposed rules resulting from this RFI. Until a proposed rule is available to review, we provide the following general comments and recommendations for your consideration.

**1. The COE must follow its statutory authority defined by Congress.**

The COE solicits comments on a wide variety of issues, and as a result, may receive suggestions or recommendations that fall well outside the COE's statutory authority as defined by Congress. The COE must ensure that any proposed rule resulting from this RFI is necessary, appropriate, and aligns with its statutory authority defined by Congress.

**2. The COE must explain how it will implement any proposed rule resulting from the RFI in an effective, efficient, transparent, timely, and consistent manner.**

Any future proposed rule resulting from this RFI may require additional COE resources. For example, there are currently 574 federally recognized tribes and an unknown number of environmental justice communities. The COE must clearly explain how it will manage



## THE PETROLEUM ALLIANCE OF OKLAHOMA

consultations and coordination efforts with these entities in an effective, efficient, transparent, timely, and consistent manner, especially as it relates to its Regulatory Program. Project development schedules are extremely important to our membership, and any excessive permit delays may unnecessarily increase development costs or place a project in an uneconomic condition. Also, it is unclear how the COE, under its Regulatory Program, will consider the State of Oklahoma's existing unique legal framework as it relates to Tribes. We request the COE clarify these issues in any future proposed rule.

### **3. The COE should clarify its relationship with the Advisory Council on Historic Preservation (ACHP)**

The ACHP is given the legal responsibility to **assist** federal agencies in their efforts and to ensure they consider preservation during project planning.<sup>1</sup> This suggests that ACHP's regulations are advisory, and that the COE can tailor its Regulatory Program to meet the intent of the ACHP requirements while staying within the boundaries of its Congressional authority. For example, the scope of the undertaking subject to review: the COE's use of "permit area" (in accordance with its authority) is different than ACHP's use of "area of potential effect" (which goes beyond the COE's authority). The COE should consider how to comply with the National Historic Preservation Act in the most efficient and effective manner without unnecessarily delaying project development while staying within its Congressionally mandated authority. We request the COE clarify this issue in any future proposed rule resulting from this RFI.

### **4. The COE must ensure any proposed rule resulting from this RFI is not retroactive.**

The COE must ensure that any proposed rule requirements resulting from this RFI are prospective and does not require the reopening of any of the COE's past regulatory permits or determinations under its Regulatory Program.

The Alliance appreciates the opportunity to provide comments regarding the COE's RFI. If you have questions, please contact me at [angie@okpetro.com](mailto:angie@okpetro.com) or 405-601-2124.

Sincerely,

Angie Burckhalter  
Sr. V.P. of Regulatory and Environmental Affairs

---

<sup>1</sup> Fact Sheet About the ACHP, ACHP [website](#), July 25, 2022.