

## § 222.5

## 33 CFR Ch. II (7-1-08 Edition)

will be forwarded as soon as hydrologic data are available, but not later than the 10th of the month. For further information on reporting refer to ER 500-1-1, 33 CFR part 203.

(ii) During major drought situations or low-flow conditions, narrative summaries of the situation should be furnished to alert the Chief of Engineers regarding the possibility of serious runoff deficiencies that are likely to call for actions associated with Corps of Engineers reservoirs.

(iii) The reports referred to in paragraphs (m)(7) (i) and (ii) of this section will include general summaries regarding the status of reservoir storage, existing and forecasted at the time of the reports.

(8) *Reports on project operations during flood emergencies.* Information on project regulations to be included in reports submitted to the Chief of Engineers during flood emergencies in accordance with ER 500-1-1 include rate of inflow and outflow in CFS, reservoir levels, predicted maximum level and anticipated date, and percent of flood control storage utilized to date. Maximum use should be made of computerized communication facilities in reporting project status to DAEN-CWO-E/CWE-HW in accordance with the requirements of ER 500-1-1, 33 CFR part 203.

(9) *Post-flood summaries of project regulation.* Project regulation effects including evaluation of the stage reductions at key stations and estimates of damages prevented by projects will be included in the post flood reports required by ER 500-1-1, 33 CFR part 203.

(n) *Water Control Management Boards.*

(1) The Columbia River Treaty Permanent Engineering Board was formed in accordance with the Columbia River Treaty with Canada. This board, composed of U.S. and Canadian members, oversees the implementation of the Treaty as carried out by the U.S. and Canadian Entities.

(2) The Mississippi River Water Control Management Board was established by ER 15-2-13. It consists of the Division Commanders from LMVD, MRD, NCD, ORD, and SWD with the Director of Civil Works serving as chairman. The purposes of the Board are:

(i) To provide oversight and guidance during the development of basin-wide management plans for Mississippi River Basin projects for which the US Army Corps of Engineers has operation/regulation responsibilities.

(ii) To serve as a forum for resolution of water control problems among US Army Corps of Engineers Divisions within the Mississippi River Basin when agreement is otherwise unobtainable.

(o) *List of projects.* Projects owned and operated by the Corps of Engineers subject to this regulation are listed with pertinent data in Appendix E. This list will be updated periodically to include Corps projects completed in the future. Federal legislation, Federal regulations and local agreements have given the Corps of Engineers wide responsibilities for operating projects which it does not own. Non-Corps projects subject to this regulation are included in Appendix A of ER 1110-2-241.

### APPENDIX A TO § 222.5—REFERENCES

1. The Federal Power Act, Pub. L. 436-83, approved 10 June 1920, as amended (41 Stat. 1063; 16 U.S.C. 791(a))
2. Section 3 of the Flood Control Act approved 22 June 1936, as amended (49 Stat. 1571; 33 U.S.C. 701(c))
3. Section 9(b) of Reclamation Project Act of 1939, approved 4 August 1939 (53 Stat. 1187; 43 U.S.C. 485)
4. Section 7 of the Flood Control Act approved 22 December 1944 (58 Stat. 890; 33 U.S.C. 709)
5. Section 5 of Small Reclamation Projects Act of 6 August 1956, as amended (70 Stat. 1046; 43 U.S.C. 422(e))
6. Section 9 of Pub. L. 436-83d Congress (68 Stat. 303)
7. The Fish and Wildlife Coordination Act of 1958, Pub. L. 85-624
8. The Federal Water Project Recreation Act Uniform Policies, Pub. L. 89-72
9. The National Environmental Policy Act of 1969, Pub. L. 91-190
10. The Clean Water Act of 1977, Pub. L. 95-217
11. Executive Order 12088, Federal Compliance with Pollution Control Standards, 13 October 1978
12. 33 CFR 208.10, Local flood protection works; maintenance and operation of structures and facilities (9 FR 9999; 9 FR 10203)
13. 33 CFR 208.11, Regulations for use of Storage Allocated for Flood Control or Navigation and/or Project Operation at Reservoirs

subject to Prescription of Rules and Regulations by the Secretary of the Army in the Interest of Flood Control and Navigation (43 FR 47184)

14. AR 18-1
15. ER 11-2-101
16. ER 15-2-13
17. ER 500-1-1, 33 CFR part 203
18. ER 1110-2-241, 33 CFR part 208
19. ER 1110-2-1400
20. ER 1110-2-1402
21. ER 1110-2-1941
22. ER 1125-2-301
23. ER 1130-2-303
24. ER 1130-2-334
25. ER 1130-2-415
26. ER 1130-2-417
27. ER 1130-2-419
28. EM 1110-2-3600

APPENDIX B to § 222.5—SUMMARY OF CORPS OF ENGINEERS RESPONSIBILITIES FOR PRESCRIBING REGULATIONS FOR NON-CORPS RESERVOIR PROJECTS

*Summary*

1. (a) "Regulations for Use of Storage Allocated for Flood Control or Navigation and/or Project Operation at Reservoirs subject to Prescription of Rules and Regulations by the Secretary of the Army in the Interest of Flood Control and Navigation" (33 CFR 208.11) prescribe the responsibilities and general procedures for regulating reservoir projects capable of regulation for flood control or navigation and the use of storage allocated for such purposes and provided on the basis of flood control and navigation, except projects owned and operated by the Corps of Engineers; the International Boundary and Water Commission, United States and Mexico; and those under the jurisdiction of the International Joint Commission, United States and Canada, and the Columbia River Treaty.

(b) Pertinent information on projects for which regulations are prescribed under Section 7 of the 1944 Flood Control Act, (Pub. L. 78-58 Stat. 890 (33 U.S.C. 709)) the Federal Power Act (41 Stat. 1063 (16 U.S.C. 791(A))) and Section 9 of Pub. L. 436-83d Congress (68 Stat. 303) is published in the FEDERAL REGISTER in accordance with 33 CFR 208.11.

Publication in the FEDERAL REGISTER establishes the fact and the date of a project's regulation plan promulgation.

2. Section 7 of Act of Congress approved 22 December 1944 (58 Stat. 890; 33 U.S.C. 709), reads as follows:

"Hereafter, it shall be the duty of the Secretary of War to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations: *Provided,*

That this section shall not apply to the Tennessee Valley Authority, except that in case of danger from floods on the Lower Ohio and Mississippi Rivers the Tennessee Valley Authority is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with such instructions as may be issued by the War Department."

3. Section 9(b) of the Reclamation Project Act of 1939, approved 4 August 1939 (53 Stat. 1189, 43 U.S.C. 485), provides that the Secretary of the Interior may allocate to flood control or navigation as part of the cost of new projects or supplemental works; and that in connection therewith he shall consult with the Chief of Engineers and may perform any necessary investigations under a cooperative agreement with the Secretary of the Army. These projects are subject to 33 CFR 208.11 regulations.

4. Several dams have been constructed by State agencies under provisions of legislative acts wherein the Secretary of the Army is directed to prescribe rules and regulations for project operation in the interest of flood control and navigation. These projects are subject to 33 CFR 208.11 regulations.

5. There are few dams constructed under Emergency Conservation work authority or similar programs, where the Corps of Engineers has performed major repairs or rehabilitation, that are operated and maintained by local agencies which are subject to 33 CFR 208.11 regulations.

6. The Federal Power Act, approved 10 June 1920, as amended (41 Stat. 1063, 16 U.S.C. 791 (A)), established the Federal Power Commission, now Federal Energy Regulatory Commission (FERC), with authority to issue licenses for constructing, operating, and maintaining dams or other project works for the development of navigation, for utilization of water power and for other beneficial public uses in any streams over which Congress has jurisdiction. The Chief of Engineers is called upon for advice and assistance as needed in formulating reservoir regulation requirements somewhat as follows:

a. In response to requests from the FERC, opinions and technical appraisals are furnished by the Corps of Engineers for consideration prior to issuance of licenses by the FERC. Such assistance may be limited to general presentations, or may include relatively detailed proposals for water control plans, depending upon the nature and scope of projects under consideration. The information furnished is subject to such consideration and use as the Chairman, FERC, deems appropriate. This may result in inclusion of simple provisions in licenses without elaboration, or relatively detailed requirements for reservoir regulation schedules and plans.

b. Some special acts of Congress provide for construction of dams and reservoirs by non-Federal agencies or private firms under