



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 208

Flood Control Regulations, Marshall Ford Dam (Mansfield Dam and Lake Travis),
Colorado River, Texas

AGENCY: U.S. Army Corps of Engineers, DoD

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to amend the rules regarding use and administration of Marshall Ford Dam (Mansfield Dam and Lake Travis), Colorado River, Texas. In 1997, the Lower Colorado River Authority (LCRA) completed repayment of the federal government's contribution for acquisition and construction costs related to Mansfield Dam. Subsequently, the United States Bureau of Reclamation (USBR) relinquished all rights and obligations to the project. However, the U.S. Department of the Interior and the USBR are referenced as project stakeholders in the Flood Control Regulations. Amending the referenced regulations to update project ownership will eliminate the current discrepancy between the regulations and associated project documents. The Fort Worth District of the Corps and LCRA are finalizing a revised water control plan for Lake Travis. There is no intent to publish the updated water control plan in the Federal Register. Amending the regulations to indicate that the water control plan has been superseded would eliminate the need to amend the regulations each time the water control plan is modified.

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number COE-2013-0013, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-mail: sandy.l.gore@usace.army.mil. Include the docket number, COE-2013-0013, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, ATTN: CECW-SWD (Sandy Gore), 441 G Street, NW, Washington, D.C. 20314-1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE-2013-0013. All comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through regulations.gov or e-mail. The regulations.gov web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to the Corps without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the

public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov. All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

FOR FURTHER INFORMATION CONTACT: Sandy Gore at 202-761-5237 or by e-mail at sandy.l.gore@usace.army.mil.

SUPPLEMENTARY INFORMATION:

Executive Summary

The purpose of this action is to amend the regulations to reflect changes in ownership and responsibilities of flood control management of Marshall Ford Dam (Mansfield Dam and Lake Travis) by the U.S. Army Corps of Engineers (USACE) and the Lower Colorado River Authority (LCRA) and to clarify that the published water control plan has been superseded. Specifically, the objective is to amend 33 CFR 208 to indicate:

- A) A change in project ownership. This will require revision of 33 CFR 208.11(e) List of Projects, which currently indicates USBR as the project owner, and 33 CFR 208.19, which references the Secretary of the Interior and the Bureau of Reclamation as the responsible party for operating Marshall Ford Dam in the interest of flood control above elevation 714.
- B) Revision of the Marshall Ford Dam (Mansfield Dam and Lake Travis) water control plan in 2012.
- C) USACE intention to henceforth forego publication of the Marshall Ford Dam (Mansfield Dam and Lake Travis) water control plan in the Federal Register.
- D) USACE and LCRA as sources for obtaining information regarding the most recently approved and therefore currently the effective water control plan.

Background

Mansfield Dam was funded, planned, and built by the United States Bureau of Reclamation (USBR) from February 1937 through September 1940. The Lower Colorado River Authority (LCRA) acquired the land for the project and paid for the majority of the costs related to the hydroelectric power facilities. The USBR was the project owner while LCRA was repaying the federal government contribution to the project. LCRA completed repayment in May 1997, and the USBR relinquished all rights and obligations to the project. USBR has formally requested USACE revise the water control manual (of which the water control plan is an integral part) and any other regulatory documents accordingly.

As a result of Section 7 of the Flood Control Act of 1944, the U.S. Army Corps of Engineers (USACE) is responsible for prescribing a formal water control plan for

regulation of the Lake Travis storage space allocated for flood control (elevation 681.0 to elevation 714.0). As per ER 1110-2-241, *Use of Storage Allocated for Flood Control and Navigation at Non-Corps Projects* (24 May 1990), paragraph 6.d. - *Water Control Plan and Manual*, the Corps of Engineers is responsible for developing the formal flood control regulation / water control plan, documenting the plan in a water control manual, and furnishing a copy of the manual to the project owner. A water control plan for Lake Travis was published in the Federal Register (33 CFR 208.19) in May of 1951.

Subsequently, 33 CFR 208 was amended in April 1976, and again in April 1979, by revising Section 208.19 to reflect revision of the water control plan. Each of these three respective water control plans, and Section 208.11, identifies the U.S. Department of the Interior and/or the USBR as stakeholders in the project.

In 2012, based on results of a recent study, USACE – Fort Worth District and LCRA finalized a jointly supported revision of the water control plan for Lake Travis. There being no requirement for publication of the water control plan in the Federal Register, USACE plans to henceforth forego doing so. Also in 2012, USACE – Fort Worth District and LCRA agreed on a formal Letter of Understanding (LOU) and a Water Control Agreement (WCA) in accordance with ER 1110-2-241, *Use of Storage Allocated for Flood Control and Navigation at Non-Corps Projects* (24 May 1990). LCRA has agreed to sign the LOU and the WCA, and adopt the new water control plan, upon amendment of the CFR to indicate the last published water control plan (April 1979) has been superseded.

Administrative Requirements

Plain Language

In compliance with the principles in the President's memorandum of June 1, 1998, (63 FR 31855) regarding plain language, this preamble is written using plain language. The use of "we" in this notice refers to the U.S. Army Corps of Engineers. We have also used the active voice, short sentences, and common everyday terms except for necessary technical terms.

Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. This proposed rule adjusts our civil penalty amounts to comply with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. Therefore, this action is not subject to the Paperwork Reduction Act.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. For the Corps regulatory program under Section 10 of the Rivers and Harbors Act of 1899,

Section 404 of the Clean Water Act, and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, the current OMB approval number for information requirements is maintained by the Corps of Engineers (OMB approval number 0710-0003).

Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, a small entity is defined as: (1) a small business based on Small Business Administration size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, we believe that this action will not have a significant economic impact on a substantial number of small entities. The proposed rule is consistent with current agency practice, does not impose new substantive requirements, and therefore would not have a significant economic impact on a substantial number of small entities.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the Federal Register. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 33 CFR Part 208

Dams, Flood control, Intergovernmental relations, Reservoirs.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 208 as follows:

PART 208 – FLOOD CONTROL REGULATIONS

1. The authority citation for 33 CFR part 208 continues to read as follows:

Authority: Sec. 7, 58 Stat. 890; 33 U.S.C. 709.

2. Amend § 208.11(e) as follows:

- a. Revise the entry for Marshall Ford Dam and Reservoir on the “List of Projects” table; and

- b. Revise footnote 4.

§ 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.

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(e) * * *

List of Projects

[Non-Corps projects with Corps Regulation Requirements]

Project name ¹ (1)	State (2)	County (3)	Stream ¹ (4)	Project purpose ² (5)	Storage 1000 AF (6)	Elev limits feet M.S.L.		Area in acres		Authorizing legis. ³ (11)	Proj. owner ⁴ (12)
						Upper (7)	Lower (8)	Upper (9)	Lower (10)		

Marshall Ford Dam & Res	TX	Travis	Colorado R	F NEIM	779.8 810.5	714.0 681.0	681.0 618.0	29060 18955	18955 8050	PL 73-392 PL 78-534	LCRA

¹ Cr—Creek; CS—Control Structure; Div—Diversion; DS—Drainage Structure; FG—Floodgate; Fk—Fork; GIWW—Gulf Intercoastal Waterway; Lk—Lake; L&D—Lock & Dam; PS—Pump Station; R—River; Res—Reservoir

² F—Flood Control; N—Navigation; P—Corps Hydropower; E—Non Corps Hydropower; I—Irrigation; M—Municipal and/or Industrial Water Supply; C—Fish and Wildlife Conservation; A—Low Flow Augmentation or Pollution Abatement; R—Recreation; Q—Water Quality or Silt Control

³ FCA—Flood Control Act; FERC—Federal Energy Regulatory Comm; HD—House Document; PL—Public Law; PW—Public Works; RHA—River & Harbor Act; SD—Senate Document; WSA—Water Supply Act

⁴ Appl Pwr—Appalachian Power; Chln PUD—Chelan Cnty PUD 1; CLPC—CT Light & Power Co; Dgls PUD—Douglas Cnty PUD 1; DWR—Department of Water

Resources; EB-MUD—East Bay Municipal Utility Dist; GRD—Grand River Dam Auth; Grnt PUD—Grant Cnty PUD 2; Hnbl—city of Hannibal; LCRA—Lower Colorado River Authority; M&T Irr—Modesto & Turlock Irr; Mrcd Irr—Merced Irr; NEPC—New England Power Co; Pgnt P&L—Pugent Sound Power & Light; Ptmc Comm—Upper Potomac R Comm; Rclm B—Reclamation Board; Rkfd—city of Rockford; Sttl—city of Seattle; Tac—City of Tacoma; Vale USBR—50% Vale Irr 50% USBR; WF&CWID—City of Wichita Falls and Wichita Cnty Water Improvement District No. 2; WMEC—Western MA Electric Co; YCWA—Yuba City Water Auth; Yolo FC&W—Yolo Flood Control & Water Conserv Dist

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3. Revise § 208.19 to read as follows:

§208.19 Marshall Ford Dam and Reservoir (Mansfield Dam and Lake Travis), Colorado River, Texas.

In the interest of flood control, the Lower Colorado River Authority (LCRA) shall operate the Marshall Ford Dam and Reservoir in accordance with the water control plan of regulation most recently approved by the U.S. Army Corps of Engineers (USACE), effective on the date specified in the approval. Information regarding the most recently approved water control plan of regulation may be obtained by contacting the LCRA offices in Austin, Texas, or the offices of the U.S. Army Corps of Engineers, Fort Worth Engineer District, in Fort Worth, Texas.

Dated: December 13, 2013.

Approved by:

James C. Dalton, P.E., SES
Chief of Engineering and
Construction
U.S. Army Corps of Engineers

[FR Doc. 2013-30497 Filed
12/20/2013 at 8:45 am; Publication Date:
12/23/2013]