

**ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

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In Re:)		
)		
Four Corners Power Plant)	NPDES Appeal No. 19-06	
NPDES Renewal Permit: NN0000019)		
Arizona Public Service Company (Permittee))		
)		
)		

**ARIZONA PUBLIC SERVICE COMPANY'S
SURREPLY TO PETITIONERS' CONSOLIDATED REPLY**

ATTACHMENT 4

SUPPLEMENTARY INFORMATION: On March 27, 1980 the Postal Service published in the Federal Register (45 FR 20118) a proposal to amend the regulations of the Postal Service concerning the mailing of poisons, poisonous drugs and medicines, and controlled substances. This proposal would have, among other things, eliminated the requirement to send controlled substances by registered mail. There were two extensions of the comment period on the registered mail proposal (see 45 FR 26983 and 38419), and the periods expired without any comments from the public on this issue.

Accordingly, the Postal Service hereby adopts the following revisions of the Domestic Mail Manual, which is incorporated by reference in the Federal Register. See 39 CFR 111.1.

Part 124—Nonmailable Matter—Articles and Substances; Special Mailing Rules

In 124.5 delete .543 and .544.

124.5 Controlled Substances, Narcotics (18 U.S.C. 1716)

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.54 Mailing Requirements

* * * * *

.543 [Deleted]

.544 [Deleted]

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the Federal Register as provided in 39 CFR 111.3.

(39 U.S.C. 401(2); 18 U.S.C. 1716)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 80-21009 Filed 7-18-80; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[FRL 1545-2]

Consolidated Permit Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of portion of final rule.

SUMMARY: This action suspends a portion of the definition of the term, "waters of the United States" in the Consolidated Permit Regulations pending further rulemaking.

EFFECTIVE DATE: July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Peter Holmes, Office of General Counsel (A-131), Washington, D.C. 20460 (202) 755-0753.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA issued final consolidated permit regulations under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, the Clean Water Act, and the Clean Air Act. Included in those regulations was a definition of the term "waters of the United States." 40 CFR § 122.3. This term governs the applicability of the "National Pollutant Discharge Elimination System" (NPDES) permit system under the Clean Water Act.

The definition amended the previous definition, formerly appearing at 40 CFR § 122.3(t) (1979) of the term "navigable waters." This prior definition had specified that:

* * * waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

The May 19 regulations provided:

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR § 423.11 (m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as a disposal area in wetlands) nor resulted from the impoundment of waters of the United States. [40 CFR § 122.3, definition of "waters of the United States," FR 33424, May 19, 1980]

The Agency's purpose in the new last sentence was to ensure that dischargers did not escape treatment requirements by impounding waters of the United States and claiming the impoundment was a waste treatment system, or by discharging wastes into wetlands.

Petitions for review were filed in several courts of appeals by industries and an environmental group seeking review of the May 19 consolidated regulations. Certain industry petitioners wrote to EPA expressing objections to the language of the definition of "waters of the United States." They objected that the language of the regulation would require them to obtain permits for discharges into existing waste treatment systems, such as power plant ash ponds, which had been in existence for many years. In many cases, they argued, EPA has issued permits for discharges from, not into, these systems. They requested EPA to revoke or suspend the last sentence of the definition.

EPA agrees that the regulation should be carefully re-examined and that it may be overly broad. Accordingly, the Agency is today suspending its

effectiveness. EPA intends promptly to develop a revised definition and to publish it as a proposed rule for public comment. At the conclusion of that rulemaking, EPA will amend the rule, or terminate the suspension.

Authority: This suspension is issued under authority of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*

Dated: July 16, 1980.

Douglas M. Costle,
Administrator.

§ 122.3 [Amended]

1. In 40 CFR § 122.3, in the definition of "Waters of the United States," the last sentence, beginning "This exclusion applies * * *," is suspended until further notice.

[FR Doc. 80-21876 Filed 7-17-80; 11:32 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 460

Professional Standards Review; Redesignation of PSRO Areas in California

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final regulation.

SUMMARY: This regulation redesignates Professional Standards Review Organization (PSRO) areas in California in order to combine PSRO Areas XIX and XXIII. This redesignation will facilitate initiation of PSRO activity in the currently uncovered area of Los Angeles, California, formerly designated as Area XIX. In addition, the redesignation results in a higher degree of congruence with the Health Service Area (HSA) designations and in more effective coordination with Medicare intermediaries and carriers and Medicaid fiscal agents.

DATES: Effective July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Marjorie Geller, (301) 594-5033.

SUPPLEMENTARY INFORMATION: On December 17, 1979, we published a notice of proposed rulemaking in the Federal Register (44 FR 73128). The purpose of the proposal was to redesignate California PSRO areas so that the cities and postal zones of Los Angeles County previously designated as PSRO Area XIX were transferred to PSRO Area XXIII which consists of a group of cities in Los Angeles County.