

and paperboard, coatings, adhesives, and polymers).

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[FR Doc. E8-21958 Filed 9-23-08; 8:45 am]

BILLING CODE 6560-50-S

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

#### 43 CFR Part 423

RIN 1006-AA55

#### Public Conduct on Bureau of Reclamation Facilities, Lands, and Waterbodies

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Interim final rule.

**SUMMARY:** This final rule will amend the regulations that govern public access to and conduct on Bureau of Reclamation (Reclamation) facilities, lands, and waterbodies. This action is necessary to clarify rules that are intended to maintain law and order and protect persons and property on Reclamation facilities, lands, and waterbodies. This action will help the public better understand their rights and responsibilities.

**DATES:** This interim final rule is effective on September 24, 2008. Reclamation must receive any comments on this interim final rulemaking no later than November 24, 2008.

**ADDRESSES:** You may submit comments, identified by the number 1006-AA55, by one of the following methods:

—*Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. This rule has been assigned Docket Identification Number BOR-2008-0003.

—*Mail:* Director, Security, Safety, and Law Enforcement, Bureau of Reclamation, 6th and Kipling, Building 67, Denver, CO 80225.

**FOR FURTHER INFORMATION CONTACT:** David Achterberg, Director, Security, Safety, and Law Enforcement, Bureau of Reclamation, PO Box 25007, Denver, Colorado 80225, telephone 303-445-3737.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On November 12, 2001, Congress enacted Public Law 107-69, which provides for law enforcement authority within Reclamation projects and on Reclamation lands. Section 1(a) of this

law requires the Secretary of the Interior to “issue regulations necessary to maintain law and order and protect persons and property within Reclamation projects and on Reclamation lands.” The Secretary of the Interior delegated this authority to the Commissioner of Reclamation.

On April 17, 2002, Reclamation published 43 CFR part 423, Public Conduct on Bureau of Reclamation Lands and Projects (67 FR 19092, Apr. 17, 2002) as an interim final rule. In the preamble to that rule, Reclamation stated its intent to replace the interim final rule with a more comprehensive public conduct rule and set April 17, 2003, as the interim final rule’s expiration date. In order to provide more time to develop the comprehensive public conduct rule, Reclamation later extended the expiration of the interim final rule to April 17, 2005 (68 FR 16214, Apr. 3, 2003), and again to April 17, 2006 (70 FR 15778, Mar. 29, 2005).

On September 13, 2005, Reclamation published a proposed public conduct rule (70 FR 54214, Sep. 13, 2005) and asked the public to comment on that proposed rule. The Final Rule, 43 CFR Part 423, was published in the **Federal Register** on April 17, 2006 (71 FR 19790, Apr. 17, 2006).

Since that time, some members of the public and other entities have found certain provisions of the public conduct rule to be unclear. The purpose of this interim final rule is to amend the public conduct rule to clarify these provisions. A detailed discussion of these amendments follows.

The definitions of the terms “Disorderly conduct” and “Trespass” are being removed, and the language from those definitions is being added to §§ 423.22 and 423.24, respectively, because these are criminal acts and their detailed descriptions should be explained in the applicable sections of Subpart C of this rule. This change will facilitate reference to specific acts when law enforcement officers issue citations for disorderly conduct and trespassing.

The definition of “Vessel” is being revised to remove the statement that seaplanes, when on the water, are considered “vessels” under this part. This change will make Reclamation consistent with the U.S. Coast Guard and the majority of western States, which do not consider a seaplane a vessel when on the water.

A definition of the term “Closed” is being added to help resolve confusion concerning the use of closures under Subpart B as opposed to special use areas under Subpart E of this rule. This definition will clarify the distinction

that closures are to be used only when all public access to a particular area or location is to be prohibited. When only a specific activity such as camping is to be prohibited in a certain area, but other public access to that area is to be allowed, a special use area should be established.

Section 423.3(a) is being revised to clarify that persons on Reclamation facilities, lands, and waterbodies must comply with Federal as well as State and local laws.

Section 423.3(b)(2) is being revised to clarify that the restrictions of part 423 do not apply to State and local employees and agents when they are carrying out their official duties.

In section 423.3(d), we are replacing the word “right” with “authority” because this passage refers to an authority which derives from Public Law 107-69.

New § 423.18 is being added to coincide with the new definition of closure, and to clarify that closures are to be used only where all public access is to be prohibited in a given area.

Section 423.21(a) is being revised to clarify that the public is responsible for awareness of all applicable laws as well as closures and special use areas when on Reclamation facilities, lands, and waterbodies.

In § 423.21(b), the words “limitations, restrictions, closures, or special use areas” are being added to ensure public understanding that the government’s ability to issue citations must not be interpreted too narrowly.

Section 423.29(b) is being revised to clarify that Reclamation will not issue permits under Subpart D of this rule to introduce plant or animal species into Reclamation lands and waterbodies. Governmental entities may, with proper authority, introduce plant or animal species to Reclamation lands and waterbodies, but these activities are not restricted by part 423, pursuant to § 423.3(b)(3), and therefore no permits are needed. Furthermore, Reclamation has no intent to issue permits to the public for the introduction of plant or animal species. Therefore, the process of obtaining permits for these activities is inapplicable to either governmental entities or to the public.

Section 423.34(c) is being reworded to clarify that under no circumstances can a latrine or toilet be placed or constructed at a level lower than the high water mark of a Reclamation waterbody, and to reduce the horizontal restriction from 200 yards to 150 feet from the high water mark. The 200-yard restriction was considered excessive.

Sections 423.36 and 423.37 are being revised to clarify that posted restrictions

and delineations on swimming and winter activities must be observed.

Section 423.38(h) is being removed because commercial activity on Reclamation facilities, lands, and waterbodies is more appropriately governed by 43 CFR part 429.

Several revisions are being made to § 423.41. First, § 423.41(a) is being revised to clarify that part 423 is not intended to establish new prohibitions, restrictions, or allowances of aircraft activity on Reclamation lands or waterbodies. Rather, any rules concerning aircraft activity that were in place on April 17, 2006, when major revisions to part 423 went into effect, remain in effect as provided in § 423.64 (renumbered through this rulemaking as § 423.63). The revised language of § 423.41(a) also clarifies the ability of Authorized Officials to establish special use areas under Subpart E of part 423 to allow, restrict, or prohibit aircraft. Pilots and others should be cautioned that this amendment does not have the effect of changing the status of any Reclamation lands or waterbodies with respect to the allowance, restriction, or disallowance of aircraft activity. Rather, the change is being made to resolve confusion that resulted from the existing language of § 423.41(a). Pilots are still responsible for determining the laws, regulations, and local rules applicable to specific Reclamation lands or waterbodies before attempting landings or takeoffs.

Section 423.41(e) of the existing rule is being removed because we have determined this provision is not necessary; any liability on behalf of aircraft pilots, owners, or passengers is dictated by State law.

In renumbered § 423.41(e) [formerly § 423.41(f)], the words “and § 423.38” are being removed to clarify that seaplanes are not considered vessels when on the water. This change coincides with the change to the definition of “vessel” as explained above.

Section 423.41(h) of the existing rule is being removed because commercial activity on Reclamation facilities, lands, and waterbodies is more appropriately governed by 43 CFR part 429.

Section 423.41(i) of the existing rule is being removed because with the changes being made to § 423.41(a), the allowable times for aircraft landings and takeoffs are governed by other Federal, State, and local laws.

Section 423.41(j) of the existing rule is being removed because with the changes being made to § 423.41(a), the language of section (j) addressing compliance with restrictions established by an Authorized Official is redundant.

Section 423.50(a) is being revised to coincide with the change made to § 423.29(b) and the deletion of § 423.38(h) discussed above, to the effect that permits under part 423 will not be issued for the introduction of plants and animals, or for the commercial operation of vessels. The language was also revised to clarify that permits may be revoked to protect the health, safety, and security of persons, Reclamation assets, or natural or cultural resources.

Subpart E, Special Use Areas, is being revised to make several clarifications. First, the current provisions of § 423.62 are being merged into § 423.60 to clarify that the requirements for “determination” and “documentation” are not two separate activities.

Also, the current requirement in § 423.61(b) for a **Federal Register** notice in order to establish special use areas is being removed. Although Reclamation believes that in some cases, **Federal Register** notice of the establishment of, or changes to, special use areas may be desirable, that need is best determined through internal policy rather than a requirement in Federal regulations. This change will also make the requirements for establishing special use areas more consistent with the requirements for establishing closures under Subpart B of this rule.

An Authorized Official’s ability to quickly establish a special use area under the current § 423.61(c) is being expanded to allow creation of special use areas with delayed notice in cases of safety and environmental needs, in addition to the existing specified conditions related to national, facility, employee, and public security.

Section 423.61(d) is being revised to clarify that if the four specified conditions are met, advance notice of the designation of a special use area is not required. The existing language implied that no notice was required, but Reclamation believes the public should always be notified of the existence of special use areas. Note that satisfaction of the four conditions specified in § 423.61(d) removes the requirement for advance notice, meaning that notice may occur at any time up until the time the special use area is designated. This contrasts with the conditions of emergency or immediate need described in § 423.61(c) under which notice may be delayed for up to 30 days after the special use area is designated.

Section 423.63 (formerly § 423.64) is being revised to clarify that rules that were already in effect on April 17, 2006 remain in effect to the extent allowed by Subpart A of part 423, and to the extent they are they are consistent with

§ 423.28. Reclamation wants to remind the public that the effect of § 423.63 is to recognize the validity of rules that that were already in effect on Reclamation facilities, lands, and waterbodies on April 17, 2006, the date major revisions to part 423 were implemented. Documented allowances, restrictions, and/or prohibitions that were in effect on that date generally remain in effect and are generally not removed or superseded by the rules contained in Subpart C of part 423. Reclamation encourages all parties to contact us with any questions concerning the rules that apply on Reclamation facilities, lands, and waterbodies.

Section 423.71(b) is being revised to clarify that the described sanctions apply to violations of closures as well as to the other types of violations described.

While each of the individual changes being made to part 423 is insufficient by itself to justify amending the rule, the total number of needed changes now warrants this amendatory rulemaking.

## II. Determination To Make This Rule Effective Immediately

Reclamation has determined that it is in the public interest to clarify and resolve the issues addressed in these amendments without delay. Members of the public have asked for a speedy implementation of regulations that will assist them to better understand their rights and obligations on Reclamation lands and waterbodies. Delay would result in unnecessary uncertainty. For these reasons, Reclamation has determined that for this rulemaking, notice and public procedure requirements are impractical, unnecessary, and contrary to the public interest and should be waived as allowed by 5 U.S.C. 553(b)(3)(B). Furthermore, for the reasons stated above, Reclamation has determined that good cause exists to waive the requirement of publication 30 days in advance of the effective date, as allowed by 5 U.S.C. 553(d)(3).

Therefore, we are issuing these amendments as an interim final rule that will go into effect immediately. Following a 60-day public review period and our review of any public comments received, Reclamation expects to publish a final rule.

## III. Procedural Matters

### 1. Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under

Executive Order 12866. This rule makes only minor amendments to the existing 43 CFR part 423 for purposes of clarification.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

## 2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule makes only minor amendments to the existing 43 CFR part 423 for purposes of clarification.

## 3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule makes only minor amendments to the existing 43 CFR part 423 for purposes of clarification.

The rule:

(1) Does not have an annual effect on the economy of \$100 million or more.

(2) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(3) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

## 4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. This rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. This rule makes only minor amendments to the existing 43 CFR part 423 for purposes of clarification. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

## 5. Takings (E.O. 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications. This rule makes only minor amendments to the existing 43 CFR part 423 for purposes of clarification. A takings implication assessment is not required.

## 6. Federalism (E.O. 13132)

In accordance with Executive Order 12612, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule makes only minor amendments to the existing 43 CFR part 423 for purposes of clarification. A Federalism Assessment is not required.

## 7. Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

## 8. Consultation With Indian Tribes (E.O. 13175)

Under the criteria in Executive Order 13175, we have evaluated this rule and determined that it has no potential effects on federally recognized Indian tribes. This rule recognizes tribal authorities, laws, and regulations but does not affect them.

## 9. Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83-I is not required.

## 10. National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

## 11. Information Quality Act

In developing this rule we did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554).

## 12. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition of Executive Order 13211. A Statement of Energy Effects is not required.

## 13. Clarity of This Regulation

We are required by E.O. 12866 and 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you believe we have not met these requirements, please send comments to Reclamation as instructed in the **ADDRESSES** section. Please make your comments as specific as possible, referring to specific sections and how they could be improved. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

## 14. Public Availability of Comments

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

## List of Subjects in 43 CFR Part 423

Law enforcement, Public conduct, Reclamation lands, and Reclamation projects.

Dated: September 10, 2008.

**Timothy R. Petty,**

*Acting Assistant Secretary for Water and Science.*

■ For the reasons stated in the preamble, Reclamation amends 43 CFR part 423 as follows:

## **PART 423—PUBLIC CONDUCT ON BUREAU OF RECLAMATION FACILITIES, LANDS, AND WATERBODIES**

■ 1. The authority citation for part 423 continues to read as follows:

**Authority:** Public Law 107–69 (November 12, 2001) (Law Enforcement Authority) (43 U.S.C. 373b and 373c); Public Law 102–575, Title XXVIII (October 30, 1992) (16 U.S.C. 460l–31 through 34); Public Law 89–72 (July 9, 1965) (16 U.S.C. 460l–12); Public Law 106–206 (May 26, 2000) (16 U.S.C. 460l–6d); Public Law 59–209 (June 8, 1906) (16 U.S.C.

431-433); Public Law 96-95 (October 31, 1979) (16 U.S.C. 470aa-mm).

■ 2. Amend § 423.2 as follows:

■ a. Remove the definitions of “Disorderly conduct” and “Trespass.”

■ b. Remove from the definition of “Vessel” the words “A seaplane on Reclamation waters is considered a vessel for the purposes of § 423.38 of this part.”

■ c. Add the definition of “Closed” in alphabetical order, to read as follows:

**§ 423.2 Definitions of terms used in this part.**

\* \* \* \* \*

“Closed means a prohibition to all public access.”

\* \* \* \* \*

■ 3. Amend § 423.3 by revising paragraphs (a) introductory text, (b)(2), and the last sentence of paragraph (d) to read as follows:

**§ 423.3 When does this part apply?**

(a) This part and all applicable Federal, State, and local laws apply to all persons on Reclamation facilities, lands, and waterbodies, with the following exceptions:

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(2) An employee or agent of the Federal, State, or local government when the employee or agent is carrying out official duties; or

\* \* \* \* \*

(d) \* \* \* However, Reclamation retains the authority to take necessary actions to safeguard the security and safety of the public and such Reclamation facilities, lands and waterbodies.

\* \* \* \* \*

■ 4. Add § 423.18 to read as follows:

**§ 423.18 Use of closures.**

Closures are to be used only where all public access is to be prohibited. Special use areas are to be used to restrict specific activities as set forth in Subpart E of this part 423.

■ 5. Amend § 423.21 by revising paragraphs (a) and (b) to read as follows:

**§ 423.21 Responsibilities.**

(a) You are responsible for finding, being aware of, and obeying all applicable laws and regulations, as well as notices and postings of closed and special use areas established by an authorized official under Subpart B and Subpart E of this part 423.

(b) You are responsible for the use of any device, vehicle, vessel, or aircraft you own, lease, or operate on Reclamation facilities, lands, or

waterbodies. You may be issued a citation for a violation of regulations, including non-compliance with limitations, restrictions, closures, or special use areas applicable to the use of any device, vehicle, vessel, or aircraft as provided in this part as the owner, lessee, or operator.

\* \* \* \* \*

■ 6. Amend § 423.22 by revising paragraph (e) to read as follows:

**§ 423.22 Interference with agency functions and disorderly conduct.**

\* \* \* \* \*

(e) The following acts constitute disorderly conduct and are prohibited:

(1) Fighting, or threatening or violent behavior;

(2) Language, utterance, gesture, display, or act that is obscene, physically threatening or menacing, or that is likely to inflict injury or incite an immediate breach of the peace;

(3) Unreasonable noise, considering the nature and purpose of the person’s conduct, location, time of day or night, and other factors that would govern the conduct of a reasonably prudent person under the circumstances;

(4) Creating or maintaining a hazardous or physically offensive condition; or

(5) Any other act or activity that may cause or create public alarm, nuisance, or bodily harm.

■ 7. Revise § 423.24 to read as follows:

**§ 423.24 Trespassing.**

You must not trespass on Reclamation facilities, lands, and waterbodies. Trespass includes any of the following acts:

(a) Unauthorized possession or occupancy of Reclamation facilities, lands, or waterbodies;

(b) Personal entry, presence, or occupancy on or in any portion or area of Reclamation facilities, lands, or waterbodies that have been closed to public use pursuant to Subpart B of this part 423;

(c) Unauthorized extraction or disturbance of natural or cultural resources located on Reclamation facilities, lands, or waterbodies;

(d) Unauthorized conduct of commercial activities on Reclamation facilities, lands, or waterbodies;

(e) Holding unauthorized public gatherings on Reclamation facilities, lands, or waterbodies; or

(f) Unauthorized dumping or abandonment of personal property on Reclamation facilities, lands, or waterbodies.

**§ 423.29 [Amended]**

■ 8. In § 423.29(b) remove the words “without a permit issued pursuant to Subpart D of this part 423”.

■ 9. Amend § 423.34 by revising paragraph (c) to read as follows:

**§ 423.34 Sanitation.**

\* \* \* \* \*

(c) You must not place or construct a toilet or latrine such that its lowest point is lower than the high water mark of any Reclamation waterbody, or within 150 feet horizontally of the high water mark of any Reclamation waterbody.

■ 10. Amend § 423.36 by revising paragraphs (a)(3) and (a)(4) and by adding a new paragraph (a)(5) to read as follows:

**§ 423.36 Swimming.**

(a) \* \* \*

(3) In canals, laterals, siphons, tunnels, and drainage works;

(4) At public docks, launching sites, and designated mooring areas; or

(5) As otherwise delineated by signs or other markers.

\* \* \* \* \*

■ 11. Amend § 423.37 by adding paragraph (c) to read as follows:

**§ 423.37 Winter activities.**

\* \* \* \* \*

(c) You must comply with all other posted restrictions.

**§ 423.38 [Amended]**

■ 12. Amend § 423.38 by removing paragraph (h) and redesignate paragraphs (i) through (l) as (h) through (k), respectively.

■ 13. Revise § 423.41 to read as follows:

**§ 423.41 Aircraft.**

(a) You must comply with any applicable Federal, State, and local laws, and with any additional requirements or restrictions established by an authorized official in a special use area under Subpart E of this part 423, with respect to aircraft landings, takeoffs, and operation on or in the proximity of Reclamation facilities, lands, and waterbodies. Pilots are responsible for awareness of all applicable laws, regulations, requirements, and restrictions. This paragraph does not apply to pilots engaged in emergency rescue or in the official business of Federal, State, or local governments or law enforcement agencies, or who are forced to land due to circumstances beyond the pilot’s control.

(b) You must not operate any aircraft while on or above Reclamation

facilities, lands, and waterbodies in a careless, negligent, or reckless manner so as to endanger any person, property, or natural feature.

(c) This section does not provide authority to deviate from Federal or state regulations, or prescribed standards, including, but not limited to, regulations and standards concerning pilot certifications or ratings and airspace requirements.

(d) Except in extreme emergencies threatening human life or serious property loss, you must not use non-standard boarding and loading procedures to deliver or retrieve people, material, or equipment by parachute, balloon, helicopter, or other aircraft.

(e) You must comply with all applicable U.S. Coast Guard rules when operating a seaplane on Reclamation waterbodies.

(f) You must securely moor any seaplane remaining on Reclamation waterbodies in excess of 24 hours at mooring facilities and locations designated by an authorized official. Seaplanes may be moored for periods of less than 24 hours on Reclamation waterbodies, except in special use areas otherwise designated by an authorized official, provided:

(1) The mooring is safe, secure, and accomplished so as not to damage the rights of the Government or the safety of persons; and

(2) The operator remains in the vicinity of the seaplane and reasonably available to relocate the seaplane if necessary.

(g) You must not operate model aircraft except as allowed in special use areas established by an authorized official under subpart E of this part 423.

■ 14. Amend § 423.50 by revising paragraph (a) to read as follows:

**§ 423.50 How can I obtain permission for prohibited or restricted uses and activities?**

(a) Authorized officials may issue permits to authorize activities on Reclamation facilities, lands, or waterbodies otherwise prohibited or restricted by §§ 423.16(a)(3), 423.26, 423.27, 423.29(f), 423.30(c), 423.33(d), and 423.35(d)(1), and may terminate or revoke such permits for non-use, non-compliance with the terms of the permit, violation of any applicable law, or to protect the health, safety, or security of persons, Reclamation assets, or natural or cultural resources.

\* \* \* \* \*

■ 15. Amend § 423.60 by adding paragraph (c) to read as follows:

**§ 423.60 How special use areas are designated.**

\* \* \* \* \*

(c) An authorized official establishing a special use area must document in writing the determination described in paragraph (b) of this section. Such documentation must occur before the action, except in emergencies or situations of immediate need as described in § 423.61(c), in which case the documentation is required within 30 days after the date of the action. Reclamation will make documents produced under this section available to the public upon request except where such disclosure could compromise national or facility security, or human safety.

■ 16. Amend § 423.61 by revising paragraph (b) introductory text, paragraphs (c)(1) and (c)(3), and paragraph (d) introductory text to read as follows:

**§ 423.61 Notifying the public of special use areas.**

\* \* \* \* \*

(b) *How notice must be made.* Reclamation must notify the public at least 15 days before the action takes place by one or more of the following methods:

\* \* \* \* \*

(c) \* \* \*

(1) Notice under this section may be delayed in an emergency or situation of immediate need where delaying designation, revision, or termination of a special use area would result in significant risk to:

- (i) National security;
- (ii) The safety or security of a Reclamation facility, Reclamation employees, or the public; or
- (iii) The natural or cultural environment.

(2) \* \* \*

(3) Failure to meet the notice deadlines in paragraphs (b) or (c)(2) of this section will not invalidate an action, so long as Reclamation meets the remaining notification requirements of this section.

(d) *When advance notice is not required.* Advance notice as described in paragraph (b) of this section is not required if all the following conditions are met:

\* \* \* \* \*

■ 17. Remove § 423.62.

■ 18. Redesignate § 423.63 and § 423.64 as § 423.62 and § 423.63, respectively.

■ 19. Revise § 423.63 to read as follows:

**§ 423.63 Existing special use areas.**

Areas where rules were in effect on April 17, 2006 that differ from the rules set forth in Subpart C are considered existing special use areas, and such differing rules remain in effect to the

extent allowed by Subpart A, and to the extent they are consistent with § 423.28. For those existing special use areas, compliance with §§ 423.60 through 423.62 is not required until the rules applicable in those special use areas are modified or terminated.

■ 20. Amend § 423.71 by revising paragraph (b) to read as follows:

**§ 423.71 Sanctions.**

\* \* \* \* \*

(b) Any condition, limitation, closure, prohibition on uses or activities, or public use limits, imposed under this part 423.

[FR Doc. E8-22423 Filed 9-23-08; 8:45 am]

BILLING CODE 4310-MN-P

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 594**

[Docket No. NHTSA 2008-0114; Notice 2]

RIN 2127-AK33

**Schedule of Fees Authorized by 49 U.S.C. 30141**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** This document adopts fees for Fiscal Year 2009 and until further notice, as authorized by 49 U.S.C. 30141, relating to the registration of importers and the importation of motor vehicles not certified as conforming to the Federal motor vehicle safety standards (FMVSS). These fees are needed to maintain the registered importer (RI) program.

We are increasing the fees for the registration of a new RI from \$677 to \$760 and the annual fee for renewing an existing registration from \$570 to \$651. These fees include the costs of maintaining the RI program. The fee required to reimburse Customs for conformance bond processing costs will increase from \$9.77 to \$10.23 per bond. We are decreasing the fees to be collected from the importer of each vehicle covered by an import eligibility decision made on an individual make, model, and model year basis. For vehicles determined eligible based on their substantial similarity to a U.S. certified vehicle, the fee will decrease from \$208 to \$198. For vehicles determined eligible based on their capability of being modified to comply with all applicable FMVSS, the fee will