

**DEPARTMENT OF THE INTERIOR****Bureau of Reclamation****43 CFR Parts 421 and 423****RIN 1006-AA52****Public Conduct on Bureau of Reclamation Facilities, Lands, and Waterbodies; Inclusion of Hoover Dam****AGENCY:** Bureau of Reclamation, Interior.**ACTION:** Final rule.

**SUMMARY:** This rule makes public conduct at Hoover Dam subject to the same rules governing public conduct at other Bureau of Reclamation facilities. In order to do this, Reclamation is removing from the Code of Federal Regulations the existing 43 CFR part 421 (Rules of Conduct at Hoover Dam) and making public conduct on all Reclamation projects subject to 43 CFR part 423 (Public Conduct on Bureau of Reclamation Facilities, Lands, and Waterbodies).

**DATES:** This rule is effective on July 9, 2007.

**FOR FURTHER INFORMATION CONTACT:** Gary L. Anderson, Code 84-41000, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225, telephone 303-445-2891.

**SUPPLEMENTARY INFORMATION:****I. Background**

On February 7, 1974, the Bureau of Reclamation published 43 CFR part 421, Rules of Conduct at Hoover Dam, to address matters of security and public conduct at the dam site. On November 12, 2001, Congress enacted Public Law 107-69 (now codified at 43 U.S.C. 373b and 373c), to provide law enforcement authority within Reclamation projects and on Reclamation lands. Section 1(a) of Public Law 107-69 requires Reclamation to issue regulations to maintain law and order and protect persons and property on all Reclamation projects. Pursuant to that statutory requirement, Reclamation issued a final rule, 43 CFR part 423, Public Conduct on Bureau of Reclamation Lands and Projects, on April 17, 2002, and replaced that rule with a more comprehensive rule on April 17, 2006.

Initially, Reclamation concluded that Hoover Dam need not be included under the new public conduct rule because 43 CFR part 421 was already in place and was sufficient to serve the needs of the Hoover Dam area. However, upon further review, Reclamation has determined that it is desirable to make all Reclamation projects subject to the

same set of public conduct regulations. Having a single Reclamation public conduct rule will help reduce possibilities for confusion on the part of visitors to Reclamation projects.

Reclamation has also determined that rescinding 43 CFR part 421 and making the Hoover Dam area subject to the new public conduct rule will not result in significant impacts to the public.

**II. Comments on the Proposed Rule**

Reclamation received no comments on the proposed rule which was published in the **Federal Register** on September 28, 2006 (71 FR 56921). Therefore, the text of this final rule is identical to the proposed rule.

**III. Procedural Requirements***1. Regulatory Planning and Review (E.O. 12866)*

The Office of Management and Budget has determined that this document is not a significant rule and has not reviewed this rule under Executive Order 12866. We have conducted the analyses required by E.O. 12866 and the results are given below.

(a) 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. This rule only addresses public conduct at Hoover Dam.

(b) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule only addresses public conduct at Hoover Dam.

(c) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule only addresses public conduct at Hoover Dam.

(d) This rule does not raise novel legal or policy issues. This rule only addresses public conduct at Hoover Dam.

*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 only addresses public conduct at Hoover Dam.

*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:

(a) Does not have an annual effect on the economy of \$100 million or more. This rule only addresses public conduct at Hoover Dam.

(b) Does not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule only addresses public conduct at Hoover Dam.

(c) 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. This rule only addresses public conduct at Hoover Dam.

*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. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. This rule only addresses public conduct at Hoover Dam. 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)*

Under the criteria in Executive Order 12630, the rule does not have significant takings implications. This rule only addresses public conduct at Hoover Dam. A takings implication assessment is not required.

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

Under the criteria in Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule only addresses public conduct at Hoover Dam. A Federalism Assessment is not required.

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

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Does not unduly burden the judicial system;

(b) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;

(c) Meets the criteria of section 3(b)(2) requiring that all regulations be written

in clear language and contain clear legal standards.

*8. Consultation with Indian Tribes (E.O. 13175)*

Under the criteria in E.O. 13175, we have evaluated this rule and determined that it has no potential effects on federally recognized Indian Tribes. This rule only addresses public conduct at Hoover Dam.

*9. Paperwork Reduction Act*

This rule 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*

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. Data Quality Act*

In developing this rule we did not conduct or use a study experiment, or survey requiring peer review under the Data 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 in Executive Order 13211. A statement of energy effects is not required.

**List of Subjects**

*43 CFR Part 421*

Law enforcement, Public conduct, Reclamation lands, Reclamation projects, Dams, Security measures.

*43 CFR Part 423*

Law enforcement, Public conduct, Reclamation lands, Reclamation projects, Dams, Security measures.

Dated: May 2, 2007.

**Mark Limbaugh,**

*Assistant Secretary—Water and Science.*

■ For the reasons set forth in the preamble, the Bureau of Reclamation amends 43 CFR Chapter 1 as follows:

**PART 421—[REMOVED]**

■ 1. Under the authority of 43 U.S.C. 373b and 16 U.S.C. 460l–31, part 421 is removed.

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

■ 2. 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).

■ 3. In § 423.3, remove paragraph (a)(5) and revise paragraphs (a)(3) and (a)(4) to read as follows:

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

(a) \* \* \*

(3) Certain exceptions apply on Reclamation facilities, lands, and waterbodies administered by other Federal agencies, as further addressed in paragraph (d) of this section; and

(4) Certain exceptions apply on Reclamation facilities, lands, and waterbodies subject to treaties and Federal laws concerning tribes and Indians, as further addressed in paragraph (e) of this section.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 224 and 660**

**[Docket No. 070110003-7111-02; I.D. 112006A]**

**RIN 0648-AS89**

**Fisheries Off West Coast States; Highly Migratory Species Fisheries**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to amend text in the regulations governing closures of the drift gillnet fishery in the Pacific Loggerhead Conservation Area during El Nino events under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). The regulation is necessary to avoid jeopardizing loggerhead sea turtles, which are listed as threatened

under the Endangered Species Act, by clarifying the time period in which the area is to be closed and the methods that NMFS will use to determine if an El Nino event is occurring or forecast to occur. This final rule also corrects an inaccurate cross-reference in the regulations governing special requirements for fishing activities to protect threatened and endangered sea turtles under the HMS FMP.

**DATES:** This final rule is effective July 9, 2007.

**ADDRESSES:** Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802 4213.

**FOR FURTHER INFORMATION CONTACT:** Craig Heberer, Sustainable Fisheries Division, NMFS, 760-431-9440, ext. 303.

**SUPPLEMENTARY INFORMATION:** On April 7, 2004, NMFS published a final rule to implement the HMS FMP (69 FR 18444) that included incorrect regulatory text in 50 CFR 660.713(c)(2) pertaining to the timing of a closure for the California/Oregon swordfish/thresher shark drift gillnet fishery during declared El Nino events and methods for determination and notification concerning an El Nino event. This final rule amends that regulatory text and provides the correct information. The closure is necessary to avoid jeopardizing the continued existence of threatened loggerhead sea turtles. This final rule describes the area of the closure, the time period in which the area is to be closed, the methods that NMFS will use to determine if an El Nino event is occurring or is going to occur, and how the Assistant Administrator will provide notification that an El Nino is occurring.

This final rule clarifies that any closure as a result of an El Nino event would occur from June 1 - August 31 only, as currently specified in 50 CFR 660.713(c)(2), rather than during the time periods of January 1 - January 15 and August 15 - August 31, as currently specified inconsistently in 50 CFR 660.713 (c)(2)(ii). This final rule amends regulatory text at 50 CFR 224.104(c) that describes special requirements for fishing activities to protect endangered sea turtles. The existing text refers to special prohibitions relating to sea turtles at § 223.206(d)(2)(iv). However, paragraph (d)(2)(iv) no longer exists in 50 CFR 223.206. The reference should be to § 223.206(d). For further background information on this action please refer to the preamble of the proposed rule (72 FR 4225, January 30, 2007). No public comments were received during the comment period for