

*c. Review Under the Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

I certify that this action will not have a significant impact on a substantial number of small entities.

*d. Review Under the National Environmental Policy Act*

Due to the procedural nature of this action and because there is no intended change in the use of the areas subject to this regulation, the Corps expects that this regulation, if adopted, will not have a significant impact to the quality of the human environment. Therefore, preparation of an environmental impact statement will not be required. A draft environmental assessment has been prepared for publication in conjunction with the public notice period and is included as a supporting document in the docket for this action.

*e. Unfunded Mandates Act*

This proposed rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private sector mandate and it is not subject to the requirements of either Section 202 or Section 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

*f. Paperwork Reduction Act*

The information collection activities in this proposal have not been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). However, if finalized, this rule would remove the requirement for that collection of information by eliminating the need to submit a letter to the District Commander asking for approval to possess weapon.

**List of Subjects in 36 CFR Part 327**

Penalties, Recreation and recreation areas, Water resources.

For the reasons set out in the preamble, the Corps proposes to amend 36 CFR part 327 as follows:

**PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS**

■ 1. The authority citation for part 327 continues to read as follows:

**Authority:** 16 U.S.C. 460d; 16 U.S.C. 4601–6a; Sec. 210, Pub. L. 90–483, 82 Stat. 746; 33 U.S.C. 1, 28 Stat. 362.

■ 2. In § 327.13:

■ a. Revise paragraph (a);

■ b. Redesignate paragraph (b) as paragraph (d); and

■ c. Add new paragraphs (b) and (c).

The revision and additions read as follows:

**§ 327.13 Explosives, firearms, other weapons and fireworks.**

(a) An individual may possess or transport a weapon on any project provided that:

(1) The individual is not otherwise prohibited by Federal, state, or local law from possessing or transporting such weapon; and

(2) The possession or transportation of such weapon is in compliance with applicable Federal, state, and local law.

(b) As used in this section, “weapon” includes any firearm as defined in 18 U.S.C. 921(a)(3)(A), bow and arrow, crossbow, or other projectile firing device.

(c) The District Commander may modify or revoke the permissions granted by this section when issuing a special event permit under § 327.21.

(d) Possession of explosives or explosive devices of any kind, including fireworks or other pyrotechnics, is prohibited unless written permission has been received from the District Commander.

**R.D. James,**

*Assistant Secretary of the Army (Civil Works).*

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**BILLING CODE 3720–58–P**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Reclamation**

**43 CFR Part 420**

**[Cost Center: RR8567200, Fund: 20XR0680A2, WBS: RX.31480001.0040000]**

**RIN 1006–AA57**

**Off-Road Vehicle Use**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Secretarial Order 3376 addresses regulatory uncertainty on how agencies within the Department of the Interior manage recreational opportunities for electric bikes (E-bikes) on trails and paths where traditional bikes are allowed. To provide consistency in Federal policy among agencies with recreational opportunities pertinent to Secretarial Order 3376, the Bureau of Reclamation (Reclamation) is proposing to amend this regulation to add a definition for E-bikes and exempt E-bikes from the regulatory definition of an off-road vehicle where E-bikes are being used on roads and trails where mechanized, non-motorized use is allowed, they are not being propelled exclusively by a motorized source, and the appropriate regional director expressly determines through a formal decision that E-bikes should be treated the same as non-motorized bicycles. This proposed change would facilitate increased E-bike use where other types of bicycles are allowed in a manner consistent with existing use of Reclamation land, and increase recreational opportunities for all Americans, especially those with physical limitations.

**DATES:** Comments on the proposed rulemaking must be submitted on or before June 12, 2020.

**ADDRESSES:** You may submit comments on the proposed rulemaking by either of the methods listed below. Please use Regulation Identifier Number 1006–AA57 in your comment.

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

2. *U.S. mail, courier, or hand delivery:* Bureau of Reclamation, Asset Management Division, 8667200, P.O. Box 25007, Denver, CO 80225.

**FOR FURTHER INFORMATION CONTACT:** Ryan Alcorn, Asset Management Division, Bureau of Reclamation, 303–445–2711; [ralcorn@usbr.gov](mailto:ralcorn@usbr.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Why we are publishing this proposed rule and what it does?**

Secretarial Order 3376 set forth the policy of the Department of the Interior that E-bikes should be allowed where other, non-motorized types of bicycles are allowed and not allowed where other, non-motorized types of bicycles are prohibited. Accordingly, the proposed rule would include a definition for electric bicycles, or e-bikes. E-bikes may have 2 or 3 wheels and must have fully operable pedals. The electric motor for an E-bike may not

exceed 750 watts (one horsepower). E-bikes must fall into one of three classes:

a. "Class 1 electric bicycle" shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

b. "Class 2 electric bicycles" shall mean an electric bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; and

c. "Class 3 electric bicycle" shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

The Bureau of Reclamation is proposing to make the following changes to 43 CFR part 420:

- Section 420.5(a) will be amended to include E-bikes that satisfy certain criteria in the specified exemptions to the definition of off-road vehicles.
- Section 420.5(h) will be added to define electric bicycles consistent with Secretarial Order 3376.
- Section 420.21(d) will be added to clarify applicability to E-bikes with pedal-assisted propulsion.

Reclamation expects that the changes directed by the proposed rule could facilitate increased E-bike ridership on Reclamation lands in the future. However, the proposed rule would not be self-executing. The proposed rule, in and of itself, would not change existing allowances for E-bike usage on Reclamation-administered public lands. It would neither allow E-bikes on roads and trails that are currently closed to off-road vehicles but open to mechanized, non-motorized bicycle use, nor affect the use of E-bikes and other motorized vehicles on roads and trails where off-road vehicle use is currently allowed. While Reclamation intends for this proposed rule to increase accessibility to public lands, E-bikes would not be given special access beyond what traditional, non-motorized bicycles are allowed. To address site-specific issues, Reclamation would consider the environmental impacts from the use of E-bikes through subsequent analysis in accordance with applicable legal requirements, including the National Environmental Policy Act of 1969 (NEPA).

## II. Compliance With Other Laws, Executive Orders, and Department Policy

### *Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. The OIRA has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

This proposed rule is not an Executive Order 13771 regulatory action because it is not significant under Executive Order 12866.

### *Regulatory Flexibility Act*

The Department of the Interior certifies that this proposed rule 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.*).

### *Small Business Regulatory Enforcement Fairness Act*

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

- a. Does not have an annual effect on the economy of \$100 million or more.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- 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.

### *Unfunded Mandates Reform Act (UMRA)*

This proposed 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 proposed rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

### *Takings (Executive Order 12630)*

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. This proposed rule is not a government action capable of interfering with constitutionally protected property rights. A takings implication assessment is not required.

### *Federalism (Executive Order 13132)*

Under the criteria in section 1 of Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. It does not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the levels of government. A federalism summary impact statement is not required.

### *Civil Justice Reform (Executive Order 12988)*

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

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

### *Consultation With Indian Tribes (Executive Order 13175)*

Under the criteria in Executive Order 13175, we have evaluated this proposed rule and determined that it has no potential effects on federally recognized Indian tribes. This proposed rule does not have tribal implications that impose substantial direct compliance costs on Indian Tribal governments.

### *Paperwork Reduction Act of 1995*

This proposed rule does not contain information collection requirements,

and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required.

#### *National Environmental Policy Act*

This proposed rule is categorically excluded from NEPA analysis under DOI categorical exclusion, 43 CFR 46.210(i), which covers “Policies, directives, regulations, and guidelines: That are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively, or case-by-case.” This proposed rule would not change the existing allowances for E-bike usage on Reclamation lands. Rather, it adds a new definition for E-bikes and directs Reclamation to specifically address E-bike usage in future recreation and land-use decisions. The categorical exclusion is appropriate and applicable because the proposed rule is for an administrative change and the environmental effects of the proposed rule in future land use and implementation-level decisions to open or close lands are too speculative to lend themselves to meaningful analysis in this proposed rulemaking. The environmental consequences of these decisions will be subject to the NEPA process before a land use decision is made to ensure the appropriate management of resources on a case-by-case basis.

Pursuant to 43 CFR 46.205(c), Reclamation has reviewed its reliance upon this categorical exclusion against the list of extraordinary circumstances, at 43 CFR 46.215, and has found that none are applicable for this proposed rule. Therefore, neither an environmental assessment nor an environmental impact statement is required for this proposed rulemaking.

#### *Effects on the Energy Supply (Executive Order 13211)*

This proposed rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required. This proposed rule will not have a significant effect on the nation’s energy supply, distribution, or use.

#### *Clarity of This Regulation*

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that 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 feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the proposed rule, your comments should be as specific as possible. For example, you should tell us which sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

#### *Public Availability of Comments*

Before including your address, phone number, email 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 420**

E-bikes, Recreation.

For the reasons stated in the preamble, Reclamation proposes to amend part 420 of title 43 of the Code of Federal Regulations as follows:

#### **PART 420—OFF-ROAD VEHICLE USE**

■ 1. The authority citation for part 420 continues to read as follows:

**Authority:** 32 Stat. 388 (43 U.S.C. 391 *et seq.*) and act amendatory thereof and supplementary thereto; E.O. 11644 (37 FR 2877).

■ 2. Amend § 420.5 by revising paragraph (a) and adding paragraph (h) to read as follows:

#### **§ 420.5 Definitions.**

\* \* \* \* \*

(a) *Off-road vehicle* means any motorized vehicle (including the standard automobile) designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or natural terrain. The term excludes:

- (1) Nonamphibious registered motorboats;

- (2) Military, fire, emergency, or law enforcement vehicles when used for emergency purpose;

- (3) Self-propelled lawnmowers, snowblowers, garden or lawn tractors,

and golf carts while being used for their designed purpose;

- (4) Agricultural, timbering, construction, exploratory, and development equipment and vehicles while being used exclusively as authorized by permit, lease, license, agreement, or contract with the Bureau;

- (5) Any combat or combat support vehicle when used in times of national defense emergencies;

- (6) “Official use” vehicles; and

- (7) Electric bikes as defined by § 420.5(h), except those being used in a manner where the motor is being used exclusively to propel the E-bike.

\* \* \* \* \*

(h) *Electric Bicycle* (also known as an E-bike) shall mean a two- or three-wheeled cycle with fully operable pedals and an electric motor of not more than 750 watts (1 h.p.) that meets the requirements of one of the following three classes:

(1) Class 1 electric bicycle shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(2) Class 2 electric bicycle shall mean an electric bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

(3) Class 3 electric bicycle shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

#### **Subpart B—Designated Areas and Permitted Events**

■ 3. Amend § 420.21 by adding paragraph (d) to read as follows:

#### **§ 420.21 Procedure for designating areas for off-road vehicle use.**

\* \* \* \* \*

(d) The appropriate regional director should generally allow E-bikes whose mechanical features are being used as an assist to human propulsion on roads and trails upon which mechanized, non-motorized use is allowed, in compliance with the requirements of this section, unless the authorized officer determines that E-bike use would be inappropriate on such roads and trails. If the appropriate regional director allows E-bikes in accordance with this paragraph, an E-bike user shall be afforded the rights and privileges, and be subject to

all the duties, of non-motorized bicycles.

**Aubrey J.D. Bettencourt,**

*Deputy Assistant Secretary—Water and Science.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 273

[Docket No. FRA-2019-0069, Notice No. 2]

RIN 2130-AC85

#### Metrics and Minimum Standards for Intercity Passenger Rail Service

**AGENCY:** Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

**ACTION:** Proposed rule; announcement of public hearing.

**SUMMARY:** On March 31, 2020, FRA published a notice of proposed rulemaking (NPRM) that proposed metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations. FRA is announcing a public hearing to provide members of the public an opportunity to provide oral comments on the proposal. The public hearing will be held telephonically, instead of in-person.

**DATES:** The public hearing will be held on April 30, 2020, from 1:00 p.m. (EDT) to 4:00 p.m. (EDT). The comment period for the NPRM published on March 31, 2020, (85 FR 17835) is open through June 1, 2020. Written comments in response to views or information provided at the public hearing must be received by that date.

**ADDRESSES:** The public hearing will be held telephonically. If you are interested in participating in the public hearing please visit [https://railroads.dot.gov/legislation-regulations/regulations-rulemaking/metrics-and-minimum-](https://railroads.dot.gov/legislation-regulations/regulations-rulemaking/metrics-and-minimum-standards-intercity-passenger)

[standards-intercity-passenger](https://railroads.dot.gov/legislation-regulations/regulations-rulemaking/metrics-and-minimum-standards-intercity-passenger). For assistance registering for the public hearing, contact Katie List at [Katie.List@dot.gov](mailto:Katie.List@dot.gov) or (202) 493-0530.

Written comments in response to views or information provided at the public hearing may be submitted by any of the methods listed in the NPRM. See 85 FR 17835.

**FOR FURTHER INFORMATION CONTACT:**

Kristin Ferriter, Office of Railroad Policy and Development, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 493-0197, [Kristin.Ferriter@dot.gov](mailto:Kristin.Ferriter@dot.gov).

**SUPPLEMENTARY INFORMATION:** Members of the public are invited to present oral statements, and to offer information and views about the NPRM at the public hearing. The hearing will be informal and will be conducted by a representative FRA designates under FRA's Rules of Practice (49 CFR 211.25). The hearing will be a non-adversarial proceeding; therefore, there will be no cross examination of persons presenting statements or offering evidence. An FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements are completed those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order the initial statements were made. FRA will announce additional procedures necessary to conduct the hearing, at the beginning of the hearing. The purpose of this hearing is to receive oral comments in response to an NPRM for metrics and minimum standards for intercity passenger rail service. FRA will add a transcript of the discussions to the public docket in this proceeding.

*Public Participation Procedures.* Any person wishing to make a statement at the hearing should notify Katie List by telephone or email ([Katie.List@dot.gov](mailto:Katie.List@dot.gov); (202) 493-0530) at least 5 working days before the date of the hearing and should submit a copy of the oral statement they intend to make at the proceeding (late filers will be accommodated to the extent possible).

The notification should identify the party the person represents, the particular subject(s) the person plans to address, and the time requested. The notification should also provide the participant's mailing address and other contact information. FRA reserves the right to limit participation in the hearing of persons who fail to provide such notification. FRA also reserves the right to limit the duration of presentations if necessary to afford as many people as possible the opportunity to speak.

For information on services for persons with disabilities, or to request special assistance in connection with the hearing, contact Kristin Ferriter, by telephone or email, at least 5 working days before the date of the hearing by one of the means listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### Privacy Act

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice of [www.regulations.gov](http://www.regulations.gov). Interested parties may also review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

Issued in Washington, DC, on April 7, 2020.

**Brett A. Jortland,**

*Acting Chief Counsel.*

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