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(c) Demonstrate that special precautions will be taken to:

(1) Protect the health, safety, and welfare of the public; and

(2) Minimize damage to the land and related resources.

(d) Application fees (in amounts to be determined) as authorized by section 2 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, shall accompany all applications.

§ 420.25 Reclamation lands administered by other agencies.

(a) Off-road vehicle use will be administered in accordance with Executive Order 11644, by those Federal and non-Federal agencies which have assumed responsibility for management of Reclamation lands for recreation purposes.

Specifically:

(1) Reclamation lands managed by the National Park Service, the Bureau of Sport Fisheries and Wildlife, the Bureau of Land Management, the Forest Service, and other Federal agencies will be administered in accordance with regulations of those agencies.

(2) Reclamation lands managed by non-Federal entities will be administered in a manner consistent with both part 420 and applicable non-Federal laws and regulations.

(b) Public lands withdrawn, but not yet utilized for Reclamation purposes, will be administered by the Forest Service or by the Bureau of Land Management in accordance with regulations of those agencies, but consistent with Reclamation requirements for retaining the land.

PART 422—LAW ENFORCEMENT AUTHORITY AT BUREAU OF RECLAMATION PROJECTS

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AUTHORITY: 16 U.S.C. 4601-31; 43 U.S.C. 373b, 373c

SOURCE: 67 FR 38420, June 4, 2002, unless otherwise noted.

§ 422.1 Purpose of this part.

(a) This part implements Public Law No. 107-69, 115 Stat. 593 (November 12, 2001), an Act to Amend the Reclamation Recreation Management Act of 1992, by:

(1) Establishing eligibility criteria, such as fitness and training requirements, for Federal, State, local, and tribal law enforcement personnel to protect Bureau of Reclamation (Reclamation) facilities and lands; and

(2) Ensuring that Federal, State, local, and tribal law enforcement programs comply with applicable laws and regulations when they discharge the Secretary of the Interior's authority.

(b) This part does not apply to, or limit or restrict in any way, the investigative jurisdiction or exercise of law enforcement authority of any Federal law enforcement agency, under Federal law, within a Reclamation project or on Reclamation lands. The provisions of this part apply to non-Department of the Interior Federal law enforcement agents only where Reclamation has entered into a cooperative agreement or contract with a Federal law enforcement agency, pursuant to Public Law 107-69, for the services of specified individual Federal law enforcement agents.

(c) Nothing in this part shall be construed or applied to affect any existing right of a State or local government, or an Indian tribe, or their law enforcement officers, to exercise concurrent civil and criminal jurisdiction within a

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Reclamation project or on Reclamation lands.

§ 422.2 Definitions.

(a) *Department* means the United States Department of the Interior.

(b) *Reclamation* means the Bureau of Reclamation of the United States Department of the Interior.

(c) *Law Enforcement Program* means Reclamation's program to provide law enforcement and protective services at Reclamation project facilities and on Federal project lands. The activity is directed toward the preservation of public order, safety, and protection of resources and facilities, and their occupants.

(d) *Law Enforcement Administrator (LEA)* means the person designated by the Commissioner of Reclamation to:

(1) Direct the law enforcement program and units;

(2) Develop the policy, procedures, and standards for the law enforcement program within Reclamation; and

(3) Provide for inspection and oversight to control enforcement activity.

(e) *Chief Law Enforcement Officer (CLEO)* means the highest level duly authorized law enforcement officer for a non-Department law enforcement agency.

(f) *Law Enforcement Officer* means:

(1) A duly authorized Federal law enforcement officer, as that term is defined in Public Law 107-69, from any non-Department Federal agency who is authorized to act as a law enforcement officer on Reclamation projects and lands; or

(2) Law enforcement personnel of any State, local government, or tribal law enforcement agency.

§ 422.3 Reclamation law enforcement policy.

The law enforcement policy of Reclamation is:

(a) To maintain an accountable, professional law enforcement program on Reclamation project facilities, and to protect Federal project lands and their occupants. Reclamation will meet its law enforcement responsibilities by establishing and promoting a law enforcement program which maintains law and order, and protects persons and

property within Reclamation property and on Reclamation lands;

(b) To entrust law enforcement authority only to persons deemed to be qualified, competent law enforcement professionals;

(c) To maintain a continuing review and evaluation of Reclamation's law enforcement programs and operations to ensure compliance with applicable Federal laws, regulations, and policies of the Department;

(d) To ensure that approved standards are attained and maintained by each law enforcement unit undertaking a contract or cooperative agreement;

(e) To increase the effectiveness of law enforcement through the efficient handling and exchange of criminal and intelligence information with other Federal, State, local, and tribal agencies, as appropriate;

(f) To provide the public prompt access to information concerning its law enforcement program in accordance with the spirit and intent of the Freedom of Information Act, 5 U.S.C. 552; Department FOIA Regulations, 43 CFR 2; and 383 DM 15, Freedom of Information Act Handbook (*see www.doi.gov*);

(g) To ensure that the use of force by agency personnel under contracts or cooperative agreements with Reclamation complies with the Constitution and the law of the United States; and

(h) To negotiate contracts and cooperative agreements under this part to ensure that:

(1) Reclamation retains flexibility to meet its law enforcement needs; and

(2) Entities entering into contracts and cooperative agreements are appropriately reimbursed.

RESPONSIBILITIES

§ 422.4 Responsibilities of the Commissioner of Reclamation.

(a) The Secretary of the Interior has designated the Commissioner of Reclamation to implement law enforcement authority at Reclamation facilities. The Commissioner is responsible for:

(1) Implementing the provisions of Public Law 107-69;

(2) Ensuring consistency with applicable Departmental and Reclamation requirements for law enforcement officers;

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(3) Carrying out the specific responsibilities listed in paragraph (b) of this section; and

(4) Developing any additional policies necessary for the successful accomplishment of Reclamation's law enforcement responsibilities.

(b) The Commissioner's specific responsibilities include the following:

(1) Designating Reclamation's Law Enforcement Administrator (LEA), with authority to discharge the responsibilities assigned by these regulations;

(2) Overseeing the LEA's ability to ensure that all law enforcement officers under contract or cooperative agreement for law enforcement services to Reclamation are properly trained and receive necessary authorizations; and

(3) Overseeing the LEA's development of policy, procedures, and standards for directing the law enforcement units, and the installation of management controls for proper implementation of the law enforcement program.

§ 422.5 Responsibilities of the Law Enforcement Administrator.

(a) The Law Enforcement Administrator (LEA):

(1) Reports directly to the Commissioner;

(2) Oversees the law enforcement program; and

(3) Is responsible for promulgating mission-oriented policy, procedures, and standards to ensure the effective implementation of Reclamation's law enforcement authority.

(b) The chain of command for law enforcement will run from the Commissioner through the LEA to other positions designated as part of the Reclamation law enforcement managerial structure, which may include a Chief Law Enforcement Officer. The units will be staffed through cooperative agreements or contracts with law enforcement personnel from Department and non-Department Federal agencies or State, local, or tribal law enforcement organizations, with unit command being provided as part of the cooperative agreement or contract.

(c) Within the chain of command specified in paragraph (b) of this section, the LEA provides policy direction, inspection, and oversight for the

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law enforcement functions of Reclamation.

§ 422.6 Responsibilities of the Chief Law Enforcement Officer.

The Chief Law Enforcement Officer's (CLEO) responsibilities are to ensure that:

(a) Law enforcement officers working at Reclamation facilities and on Federal project lands are duly authorized under § 422.7;

(b) Law enforcement officers authorized under a contract or cooperative agreement meet training and fitness requirements established in this part and abide by standards of conduct and performance established in this part and in the contract or cooperative agreement;

(c) Law enforcement officers are under the immediate supervision of a commanding officer who is part of each law enforcement unit for which Reclamation enters into a contract or cooperative agreement; and

(d) Required reports are made to the LEA, or to another person designated by Reclamation, for purposes of carrying out the law enforcement functions for which Reclamation has a contract or cooperative agreement.

PROGRAM REQUIREMENTS

§ 422.7 Authorization to perform law enforcement duties.

(a) The CLEO must issue written authorization to each officer who is authorized to perform Reclamation law enforcement duties.

(b) Before issuing an authorization under paragraph (a) of this section, the CLEO must ensure that the officer meets:

(1) All the requirements for officers authorized under the law enforcement contract or cooperative agreement with Reclamation; and

(2) All requirements in §§ 422.10, 422.11, and 422.12.

(c) The CLEO must terminate an officer's authorization under paragraph (a) of this section and must notify the issuing Reclamation official when the officer:

(1) Terminates employment as a full-time police officer for any reason;

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(2) Is transferred to another area of jurisdiction, where the continued performance of Reclamation duties would be impractical;

(3) Is suspended for any offense that would impair his/her fitness to perform law enforcement duties; or

(4) Is under indictment or has been charged with a crime.

(d) The LEA can, upon showing just cause, revoke the authorization of an individual officer to perform law enforcement services under Reclamation's law enforcement authority after providing written notice to the CLEO.

§ 422.8 Requirements for law enforcement functions and programs.

The requirements in this section apply to Reclamation and to each law enforcement unit exercising Reclamation's law enforcement authority.

(a) The law enforcement program must provide for control, accountability, coordination, and clear lines of authority and communication. This organizational structure must apply both within the law enforcement units, and between the law enforcement units and the LEA or other personnel designated as responsible under the law enforcement contract or cooperative agreement.

(b) Only duly authorized law enforcement officers may discharge law enforcement duties.

(c) Each law enforcement contract or cooperative agreement must specifically name those individuals within the contracting agency who are authorized to exercise Reclamation law enforcement authority consistent with applicable laws, regulations, and the requirements of this part. A CLEO can authorize only duly authorized officers who meet the standards in § 422.7 to exercise law enforcement authority.

(d) Any uniform worn by law enforcement officers must display distinctive identification to ensure that the officer is:

(1) Distinguishable from non-law enforcement personnel; and

(2) Easily recognized by the public as a law enforcement officer.

(e) Officers investigating a violation of Federal law under a law enforcement contract or cooperative agreement with Reclamation will notify applica-

ble Federal law enforcement authorities, as appropriate, pursuant to 43 U.S.C. 373b(d)(4).

(f) The LEA must:

(1) Establish an incident reporting system for incidents that occur on Reclamation lands; and

(2) Include the reporting requirements for incidents as an element of each contract or cooperative agreement.

§ 422.9 Reclamation law enforcement contracts and cooperative agreements.

(a) The LEA, or a person that the LEA designates, may enter into contracts or cooperative agreements with Federal, State, local, or tribal law enforcement agencies to aid in enforcing or carrying out Federal laws and regulations on Reclamation facilities or Reclamation-managed property. Reclamation will rescind the contract or cooperative agreement if an elected governing body with jurisdiction over the local law enforcement agency adopts a resolution objecting to the use of that agency's personnel to enforce Federal laws.

(b) Each contract and cooperative agreement authorizing the exercise of Reclamation law enforcement authority:

(1) Must expire no later than 3 years from its effective date;

(2) May be revoked earlier by either party with written notice;

(3) May be revised or amended with the written consent of both parties;

(4) Must expressly include the requirements for exercise of Reclamation law enforcement authority listed in § 422.10;

(5) Must expressly state that the officer has completed the Federal Bureau of Investigation criminal history review as required by § 422.11; and

(6) Must expressly include the standards of conduct listed in section 422.12.

§ 422.10 Requirements for authorizing officers to exercise Reclamation law enforcement authority.

(a) The CLEO must ensure that each officer receiving an authorization under § 422.7(a):

(1) Is at least 21 years old;

(2) Is certified as a bona fide full-time peace officer under State Peace Officer

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Standards and Training (POST) requirements, or its functional equivalent or is certified as a Federal law enforcement officer;

(3) Has passed his/her agency's firearms qualifications (which must be consistent with Federal policy) within the 6-month period immediately preceding the granting of the authority;

(4) Re-qualifies to use firearms with all issued service weapons at least semi-annually;

(5) Has neither been convicted of a felony offense, nor convicted of a misdemeanor offense for domestic violence, preventing him/her from possessing a firearm in compliance with section 658 of Public Law 104-208 (the 1996 amendment of the Gun Control Act of 1968);

(6) Is not the subject of a court order preventing him/her from possessing a firearm;

(7) Has no physical impairments that will hinder performance as an active duty law enforcement officer; and

(8) Attends and successfully completes a mandatory orientation session developed by Reclamation to become familiar with Federal laws and procedures and with all pertinent provisions of statutes, ordinances, regulations, and Departmental and Reclamation rules and policies.

(b) Qualification standards for guards as provided in the Departmental Manual or other Department or Reclamation guidance may only be used for those persons hired exclusively to perform guard duties.

§ 422.11 Position sensitivity and investigations.

Each law enforcement contract or cooperative agreement must include a provision requiring the CLEO to certify that each officer who exercises authority under the Act has completed an FBI criminal history check and is satisfactorily cleared.

§ 422.12 Required standards of conduct.

All law enforcement officers authorized to exercise Reclamation authority

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must adhere to the following standards of conduct:

(a) Be punctual in reporting for duty at the time and place designated by superior officers;

(b) Be mindful at all times and under all circumstances of their responsibility to be courteous, considerate, patient and not use harsh, violent, profane, or insolent language;

(c) Make required reports of appropriate incidents coming to their attention;

(d) When in uniform and requested to do so, provide their name and identification/badge number orally or in writing;

(e) Immediately report any personal injury or any loss, damage, or theft of Federal government property as required by § 422.13;

(f) Not be found guilty in any court of competent jurisdiction of an offense that has a tendency to bring discredit upon the Department or Reclamation;

(g) Not engage in any conduct that is prejudicial to the reputation and good order of the Department or Reclamation; and

(h) Obey all regulations or orders relating to the performance of the unit's duties under the Reclamation contract or cooperative agreement.

§ 422.13 Reporting an injury or property damage or loss.

(a) An officer must immediately report orally and in writing to his/her supervisor any:

(1) Injury suffered while on duty; and

(2) Any loss, damage, or theft of government property.

(b) The written report must be in detail and must include names and addresses of all witnesses.

(c) When an officer's injuries prevent him/her from preparing a report at the time of injury, the officer's immediate supervisor must prepare the report.

(d) The supervisor must submit all reports made under this section to the Reclamation official designated to receive them, as soon as possible after the incident occurs.