

# Framing Paper

## Revision of 43 CFR part 423 *Public Conduct On Bureau of Reclamation Facilities, Lands, and Waterbodies.*

The Bureau of Reclamation (Reclamation) is collaboratively working to revise the regulations of 43 CFR part 423 *Public Conduct On Bureau of Reclamation Facilities, Lands, and Waterbodies*. The proposed changes clarify the regulations that are intended to maintain law and order and protect persons and property while bringing the rulemaking into compliance with updated laws and regulations. In addition, Reclamation proposes to create a process whereby Tribes would have a new, previously prohibited ability to rebury Native American Tribal ancestors subject to the Native American Graves Protection and Repatriation Act (NAGPRA) that were recovered or inadvertently discovered from burial sites<sup>1</sup> on Reclamation-managed land. Presently, 43 CFR § 423.28 Memorials, prohibits burial of human remains. The proposed process would be similar as for other uses permitted under [43 CFR part 423](#). In determining whether to approve a permit application, Tribal interests in reburial would be considered along with Reclamation's mission-critical interests.

### Proposed Change #1

Update language concerning unmanned aerial systems (UAS) commonly referred to as “drones” to apply consistency with the Federal Aviation Administration's regulations. Other circumstances with aircraft involve the risk of invasive species introduced into Reclamation waterbodies by boats and seaplanes. The proposed rule change treats seaplanes like boats once they are on waterbodies.

### Proposed Change #2

Update language seeking to modernize regulations impacting firearms possession, animal control, and access and occupancy of Reclamation facilities, lands, and waterbodies.

### Proposed Change #3

Ease prohibition regarding § [423.28 Memorials](#) to utilize an existing permitting system for reburial of Tribal ancestors subject to NAGPRA.

The Memorials section states,

“You must not bury, deposit, or scatter human or animal remains, or place memorials, markers, vases, or plaques on Reclamation facilities, lands, or waterbodies. This section does not apply to the burial of parts of fish or wildlife taken in legal hunting, fishing, or trapping.”

We propose to amend the language to state,

“You must not bury, deposit, or scatter human or animal remains, or place memorials, markers, vases, or plaques on Reclamation facilities, lands or waterbodies **without a permit issued pursuant to subpart D of this part 423**. This section does not apply to the burial of parts of fish or wildlife taken in legal hunting, fishing, or trapping.”

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<sup>1</sup> Burial Sites, as defined in [25 U.S.C. 32 Native American Graves Protection and Repatriation](#); means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited.

In subpart D of 43 CFR part 423, Reclamation has a [Use Authorization Application](#) process currently in place for permitting those activities that are otherwise unallowed, through regulation [43 CFR part 429 Use of Bureau of Reclamation Land, Facilities, and Waterbodies](#).

**In light of the Proposed Changes, Reclamation poses the following questions to Tribes:**

**Question 1: Are there any comments concerning changes to the aircraft and unmanned aerial systems?**

**Question 2: Are there any comments about modernizing and updating regulations impacting firearms possession, animal control, and access and occupancy?**

**Question 3: Are there any comments on changes to the § 423.28 Memorials section, repealing the absolute prohibition of reburial and providing the opportunity to request reburial of NAGPRA identified ancestors through a permitting process?**

**Question 4: Are there additional suggested steps Reclamation could take to improve the Public Conduct Rule?**

## Comments Requested from Stakeholders

Comments may be provided to [bor-sha-cultural@usbr.gov](mailto:bor-sha-cultural@usbr.gov). **The comment period opens Tuesday, April 26, 2022, and closes on Friday, May 6, 2022.** Consultation webinar dates and times are listed below. Webinars will be recorded.

## Consultation Webinars

| Date             | Time                | Registration Link   |
|------------------|---------------------|---|
| Tuesday, 4/26/22 | 10:00am-11:30am MST | <a href="https://www.zoomgov.com/meeting/register/vJlSfumgrjkvG4OZk0366tjFFDABwXYMKVI">https://www.zoomgov.com/meeting/register/vJlSfumgrjkvG4OZk0366tjFFDABwXYMKVI</a> |
| Friday, 4/29/22  | 8:30am-10:00am MST  | <a href="https://www.zoomgov.com/meeting/register/vJltdO2pqDsiHo65MfhCn3UUqH0uS-LN5N4">https://www.zoomgov.com/meeting/register/vJltdO2pqDsiHo65MfhCn3UUqH0uS-LN5N4</a> |
| Tuesday, 5/3/22  | 12:00pm-1:30pm MST  | <a href="https://www.zoomgov.com/meeting/register/vJlSdemqjopHUBZvgzirsdOKnMWEEnwFfqA">https://www.zoomgov.com/meeting/register/vJlSdemqjopHUBZvgzirsdOKnMWEEnwFfqA</a> |

- Other consultation webinars to be scheduled as requested.