

Bureau of Reclamation, Interior

§ 426.18

(1) Will exempt such land from the ownership limitations of Federal reclamation law; and

(2) Will assess the full-cost rate for any irrigation water delivered to the isolated tract that exceeds the landowner's nonfull-cost entitlement.

(f) *Indian trust or restricted lands.* (1) Indian trust or restricted lands are excluded from application of the acreage limitation provisions.

(2) Indian tribes and tribal entities operating on Indian trust or restricted lands are excluded from application of the water conservation provisions.

§ 426.17 Small reclamation projects.

(a) *Effect of the RRA on loan contracts made under the Small Reclamation Projects Act.* (1) If a district entered into a loan contract under the Small Reclamation Projects Act of 1956 (43 U.S.C. 422) (SRPA) on or after October 12, 1982, the contract is subject to the provisions of the SRPA, as amended by Section 223 of the RRA and as amended by Title III of Pub. L. 99-546.

(2) If a district entered into an SRPA loan contract prior to October 12, 1982, and the district:

(i) Did not amend the loan contract to conform to the SRPA, as amended by Section 223 of the RRA, prior to October 27, 1986, then the acreage provisions of the contract continue in effect, unless the contract is amended to conform to the SRPA as amended by section 307 of Pub. L. 99-546.

(ii) Amended the loan contract to conform to the SRPA, as amended by Section 223 of the RRA, prior to October 27, 1986, the contract is subject to the increased acreage provisions provided in Section 223 of the RRA. Reclamation cannot alter, modify or amend any other provision of the SRPA loan contract without the consent of the non-Federal party.

(b) *Other sections of these regulations that apply to SRPA loans.* No other sections of these regulations apply to SRPA loans, except as specified in § 426.3(a)(3)(ii) and paragraph (d) of this section.

(c) *Effect of SRPA loans in determining whether a district has repaid its construction obligations on a water service or repayment contract.* If a district has a water service or repayment contract in

addition to an SRPA contract, Reclamation does not consider the SRPA loan:

(1) In determining whether the district has discharged its construction cost obligation for the project facilities;

(2) As a basis for reinstating acreage limitation provisions in a district that has completed payment of its construction cost obligation(s); or

(3) As a basis for increasing the construction obligation of the district and extending the period during which acreage limitation provisions will apply to that district.

(d) *Districts that have an SRPA loan contract and a contract as defined in § 426.2.* If a district has an SRPA loan contract and a contract as defined in § 426.2, the SRPA contract does not supersede the RRA requirements applicable to such contracts.

§ 426.18 Landholder information requirements.

(a) *Definition for purposes of this section:*

Irrigation season means the period of time between the district's first and last water delivery in any water year.

(b) *Who must provide information to Reclamation?* All landholders and other parties involved in the ownership or operation of nonexempt land must provide Reclamation, as required by these regulations or upon request, any records or information, in a form suitable to Reclamation, deemed reasonably necessary to implement the RRA or other provisions of Federal reclamation law.

(c) *Required form submissions.* (1) Landholders who are subject to the discretionary provisions must annually submit standard certification forms, except as provided in paragraph (1) of this section.

(2) Landholders who make an irrevocable election must submit the standard certification forms with their irrevocable election in the year that they make the election.

(3) Landholders who are subject to prior law must annually submit standard reporting forms, except as provided in paragraph (1) of this section.

(4) Landholders who qualify under an exemption as specified in paragraph (g)

§ 426.18

43 CFR, Subtitle B, Ch. I (10-1-02 Edition)

of this section need not submit any forms.

(d) *Required information.* Landholders must declare on the appropriate certification or reporting forms all non-exempt land that they hold directly or indirectly westwide and other information pertinent to their compliance with Federal reclamation law.

(e) *District receipt of forms and information.* Landholders must submit the appropriate, completed form(s) to each district in which they directly or indirectly hold irrigation land.

(f) *Certification or reporting forms for wholly owned subsidiaries.* The ultimate parent legal entity of a wholly owned subsidiary or of a series of wholly owned subsidiaries must file the required certification or reporting forms. The ultimate parent legal entity must disclose all direct and indirect landholdings of its subsidiaries as required on such forms.

(g) *Exemptions from submitting certification and reporting forms.* (1) A landholder is exempt from submitting the certification and reporting forms only if:

(i) The landholder's district has Category 1 status, as specified in paragraph (h) of this section, and the landholder is a:

(A) Qualified recipient who holds a total of 240 acres westwide or less; or

(B) Limited recipient or a prior law recipient who holds a total of 40 acres westwide or less.

(ii) The landholder's district has Category 2 status, as specified in paragraph (h) of this section, and the landholder is a:

(A) Qualified recipient who holds a total of 80 acres westwide or less; or

(B) Limited recipient or a prior law recipient who holds a total of 40 acres westwide or less.

(2) A wholly owned subsidiary is exempted from submitting certification or reporting forms, if its ultimate parent legal entity has properly filed such forms disclosing the landholdings of each of its subsidiaries.

(3) In determining whether certification or reporting is required for purposes of this section:

(i) Class 1 equivalency factors as determined in § 426.11 shall not be used; and

(ii) Indirect landholders need not count involuntarily acquired acreage designated as excess by the direct landowner.

(h) *District categorization.* (1) For purposes of this section each district has Category 2 status, unless the following criteria have been met. If the district has met both criteria, it will be granted Category 1 status.

(i) The district has conformed by contract to the discretionary provisions; and

(ii) The district is current in its financial obligations to Reclamation.

(2) Reclamation considers a district current in its financial obligation if as of September 30, the district is current in its:

(i) Financial obligations specified in its contract(s) with Reclamation; and

(ii) Payment obligations established by the RRA, and these rules.

(i) *Application of Category 1 status.* Once a district achieves Category 1 status, it will only be withdrawn if the Regional Director determines the district is not current in its financial obligations as specified in paragraph (h)(2) of this section. The withdrawal of Category 1 status will be effective at the end of the current water year and can be restored only as provided under paragraph (h) of this section. With the withdrawal of Category 1 status, the district will have a Category 2 status.

(j) *Submissions by landholders holding land in both a Category 1 district and a Category 2 district.* If a qualified recipient holds land in a Category 1 district, then the 240-acre forms threshold will be applicable in determining if the landholder must submit a certification form to that Category 1 district. If the same qualified recipient also holds land in a Category 2 district, then the 80-acre forms threshold will be applicable in determining if the landholder must submit a certification form to the Category 2 district.

(k) *Notification requirements for landholders whose ownership or leasing arrangements change after submitting forms.* If a landholder's ownership or leasing arrangements change in any way:

(1) During the irrigation season, the landholder must:

Bureau of Reclamation, Interior

§ 426.18

(i) Notify the district office, either verbally or in writing within 30-calendar days of the change; and

(ii) Submit new forms to all districts in which the landholder holds non-exempt land, within 60-calendar days of the change.

(2) Outside of the irrigation season, then the landholder must submit new standard certification or reporting forms to all districts in which non-exempt land is held prior to any irrigation water deliveries following such changes.

(1) *Notification requirements for landholders whose ownership or leasing arrangements have not changed.* If a landholder's ownership or leasing arrangements have not changed since last submitting a standard certification or reporting form, the landholder can satisfy the annual certification or reporting requirements by submitting a verification form instead of a standard form. On that form the landholder must verify that the information contained on the last submitted standard certification or reporting form remains accurate and complete.

(m) *Actions taken if required submission(s) is not made.*

(1) If a landholder does not submit required certification or reporting form(s), then:

(i) The district must not deliver, and the landholder is not eligible to receive and must not accept delivery of, irrigation water in any water year prior to submission of the required certification or reporting form(s) for that water year; and

(ii) Eligibility will be regained only after all required certification or reporting forms are submitted by the landholder to the district.

(2) If one or more part owners of a legal entity do not submit certification or reporting forms as required:

(i) The entire entity will be ineligible to receive irrigation water until such forms are submitted; or

(ii) If the documents forming the entity provide for the part owners' interest to be separable and alienable, then only that portion of the land attributable to the noncomplying part owners will be ineligible to receive irrigation water.

(n) *Actions taken by Reclamation if a landholder makes false statements on the appropriate certification or reporting forms.* If a landholder makes a false statement on the appropriate certification or reporting form(s) Reclamation can prosecute the landholder pursuant to the following statement which is included in all certification and reporting forms:

Under the provisions of 18 U.S.C. 1001, it is a crime punishable by 5 years imprisonment or a fine of up to \$10,000, or both, for any person knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement(s) as to any matter within the agency's jurisdiction. False statements by the landowner or lessee will also result in loss of eligibility. Eligibility can only be regained upon the approval of the Commissioner.

(o) *Information requirements and Office of Management and Budget approval.* The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned control numbers 1006-0005 and 1006-0006. The information is being collected to comply with Sections 206, 224(c), and 228 of the RRA. These sections require that, as a condition to the receipt of irrigation water, each landholder in a district which is subject to the acreage limitation provisions of Federal reclamation law, as amended and supplemented by the RRA, will furnish to his or her district annually a certificate/report which indicates that he or she is in compliance with the provisions of Federal reclamation law. Completion of these forms is required to obtain the benefit of irrigation water. The information collected on each landholding will be summarized by the district and submitted to Reclamation in a form prescribed by Reclamation.

(p) *Protection of forms pursuant to the Privacy Act of 1974.* The Privacy Act of 1974 (5 U.S.C. 552) protects the information submitted in accordance with certification and reporting requirements. As a condition to execution of a contract, Reclamation requires the inclusion of a standard contract article which provides for district compliance with the Privacy Act of 1974 and 43 CFR Part 2, Subpart D, in maintaining

§ 426.19

43 CFR, Subtitle B, Ch. I (10-1-02 Edition)

the landholder certification and reporting forms.

§ 426.19 District responsibilities.

A district that delivers irrigation water to nonexempt land under a contract with the United States must:

(a) Provide information to landholders concerning the requirements of Federal reclamation law and these regulations;

(b) Provide Reclamation, as required by these regulations or upon request, and in a form suitable to Reclamation, records and information as Reclamation may deem reasonably necessary to implement the RRA and other provisions of Federal reclamation law;

(c) Be responsible for payments to Reclamation of all appropriate charges specified in these regulations. Districts must collect the appropriate charges from each landholder based on the landholder's acreage limitation status, landholdings, and entitlements, and must not average the costs over the entire district, unless the charges prove uncollectible from the responsible landholders;

(d) Distribute, collect, and review landholder certification and reporting forms;

(e) File and retain landholder certification and reporting forms. Districts must retain superseded landholder certification and reporting forms for 6 years; thereafter, districts may destroy such superseded forms, except:

(1) Districts must keep on file the last fully completed standard certification or reporting form, in addition to the current verification form; or

(2) If Reclamation specifically requests a district to retain superseded forms beyond 6 years.

(f) Comply with the requirements of the Privacy Act of 1974, with respect to landholder certification and reporting forms;

(g) Annually summarize information provided on landholder certification and reporting forms on separate summary forms provided by Reclamation and submit these forms to Reclamation on or before the date established by the appropriate regional director;

(h) Withhold deliveries of irrigation water to any landholder not eligible to receive irrigation water under the cer-

tification or reporting requirements or any other provision of Federal reclamation law and these regulations; and

(i) Return to Reclamation, for deposit as a general credit to the Reclamation fund, all revenues received from the delivery of water to ineligible land. For purposes of these regulations only, this does not include revenues from any charges that may be assessed by the district to cover district operation, maintenance, and administrative expenses.

§ 426.20 Assessment of administrative costs.

(a) *Assessment of administrative costs for delivery of water to ineligible land.* Reclamation will assess a district administrative costs as described in paragraph (e) of this section if the district delivers irrigation water to land that was ineligible because the landholders did not submit certification or reporting forms prior to the receipt of irrigation water in accordance with § 426.18; or to ineligible excess land as provided in § 426.12.

(1) Reclamation will apply the assessment on a yearly basis in each district for each landholder that received irrigation water in violation of § 426.18, or for each landholder that received irrigation water on ineligible land as specified above.

(2) In applying the assessment to legal entities, compliance by an entity will be treated independently from compliance by its part owners or beneficiaries.

(3) The assessment in paragraph (a) of this section will be applied independently of the assessment specified in paragraph (b) of this section.

(b) *Assessment of administrative costs when form corrections are not made.* Reclamation will assess a district for the administrative costs described in paragraph (e) of this section, unless the district provides Reclamation with requested reporting or certification form corrections within 60-calendar days of the date of Reclamation's written request. If Reclamation receives the required corrections within this 60-calendar day time period, Reclamation will consider the requirements of § 426.18 satisfied.