

(4) The period of time during which Reclamation will accept comments.

(d) *Public availability of proposed contracts.* Anyone can get copies of a proposed contract from the appropriate regional director or his or her designated public contact when the proposed contracts become available for review and comment, as specified in the published announcement.

(e) *Opportunities for public participation.* (1) Reclamation can provide, as appropriate: meetings, workshops, or hearings to provide local information. Advance notice of meetings, workshops, or hearings will be provided to those parties who make timely written request for such notice. Request for notice of meetings, workshops, or hearings should be sent to the appropriate Reclamation regional or local office.

(2) Reclamation or the district can invite the public to observe any contract proceedings.

(3) All public participation procedures will be coordinated with those involved with National Environmental Policy Act compliance, if Reclamation determines that the contract action may or will have "significant" environmental effects.

(f) *Individuals authorized to negotiate the terms of contract proposals.* Only persons authorized to act on behalf of the district may negotiate the terms and conditions of a specific contract proposal.

(g) *Agency use of comments submitted during the period provided for comment or made at hearings.* (1) Reclamation will review and summarize for use by the contract approving authority, testimony presented at any public hearing or any written comments submitted to the appropriate Reclamation officials at locations and within the comment period, as specified in the advance published announcement.

(2) Reclamation will make available to the public all written correspondence regarding proposed contracts under the terms and procedures of the Freedom of Information Act (5 U.S.C. 552), as amended.

§ 426.23 Recovery of operation and maintenance (O&M) costs.

(a) *General.* All new, amended, and renewed contracts shall provide for pay-

ment of O&M costs as specified in this section.

(b) *Amount of O&M costs a district must pay if it executes a new or renewed contract.* If a district executes a new or renewed contract after October 12, 1982, then that district must pay all of the O&M costs that Reclamation allocates to irrigation.

(c) *Amount of O&M costs a district must pay if it amends its contract to conform to the discretionary provisions.* If a district has a contract executed prior to October 12, 1982, and the district amends the contract after October 12, 1982, as provided for in § 426.3(a)(2) to conform to the discretionary provisions, then the following applies:

(1) The district must pay all of the O&M costs that Reclamation allocates to irrigation;

(2) If in the year the amendment is executed, the district's contract rate was more than the O&M costs allocated to the district in that year then that positive difference at the time of the contract amendment must continue to be factored into the contract rate and annually paid to the United States. This would be in addition to any adjusted O&M cost that results from paragraph (c)(1) of this section. The positive difference would be factored into the contract rate for the remainder of the term of the contract; and

(3) The district will not be required to pay an increased amount toward the construction costs of a project as a condition of the district's agreeing to a contract amendment pursuant to paragraph (c) of this section.

(d) *Amount of O&M cost a district must pay if it amends its contract to provide supplemental or additional benefits.* If a district amends its contract after October 12, 1982, to provide supplemental or additional benefits, as provided for in § 426.3(a)(3), then the following must be complied with:

(1) The district must pay all of the O&M costs that Reclamation allocates to irrigation;

(2) If in the year the amendment is executed, the district's contract rate was more than the O&M costs allocated to the district in that year then that positive difference at the time of the contract amendment must continue to be factored into the contract rate and

annually paid to the United States. This would be in addition to any adjusted O&M cost that results from paragraph (d)(1) of this section. The positive difference would be factored into the contract rate for the remainder of the term of the contract; and

(3) The district must pay any increases in the amount paid annually toward the construction costs of a project that the United States requires the district to pay as a condition of agreeing to provide the district with supplemental and additional benefits.

(e) *Amount of O&M a district pays under a prior contract.* For a district whose prior contract was executed prior to October 12, 1982, the district must pay all of the O&M costs allocated by Reclamation to irrigation unless the contract specifically provides contrary terms.

(f) *Amount of O&M that Reclamation charges an irrevocable elector.* (1) Regardless of any terms to the contrary within a prior contract with a district, a landholder who makes an irrevocable election, as provided for in § 426.3(f) must pay, annually, his or her proportionate share of all O&M costs allocated by Reclamation to irrigation. The irrevocable elector's proportionate share is based upon the ratio of:

(i) The amount of land in the district held by the irrevocable elector that received irrigation water to the total amount of land in the district that received irrigation water; or

(ii) The amount of irrigation water in the district received by the irrevocable elector to the total amount of irrigation water that the district delivered.

(2) The district(s) where the irrevocable elector's landholding is located must collect from the irrevocable elector an amount equal to the irrevocable elector's proportionate share of all O&M costs allocated by Reclamation to irrigation and the following apply:

(i) If in the year the election is executed, the district's contract rate was more than the O&M costs allocated to the district in that year, then that positive difference at the time of the contract amendment must continue to be factored into the contract rate. This would be in addition to any adjusted O&M cost that results from paragraph (f)(1) of this section. The positive dif-

ference would be factored into the contract rate for the remainder of the term of the contract; and

(ii) Such collections must be forwarded annually to the United States.

(g) *Amount of O&M that Reclamation charges if a landholder is subject to full-cost pricing.* In a district subject to prior law, if a landholder is subject to full-cost pricing the district must ensure that all O&M costs are included in any full-cost assessment, regardless of whether the landholder is subject to the discretionary provisions. The revenues from such full-cost assessments must be collected and submitted to the United States.

§ 426.24 Reclamation decisions and appeals.

(a) *Reclamation decisions.* (1) *Decisionmaker for Reclamation's final determinations.* The appropriate regional director makes any final determination that these regulations require or authorize. If Reclamation's final determination is likely to involve districts, or landholders with landholdings located in more than one region, the Commissioner designates one regional director to make that final determination.

(2) *Notice to affected parties.* The appropriate regional director will transmit any final determination to any district and landholder, as appropriate, whose rights and interests are directly affected.

(3) *Effective date for regional director's final determinations.* A regional director's decisions will take effect the day after the expiration of the period during which a person adversely affected may file a notice of appeal unless a petition for stay is filed together with a timely notice of appeal.

(b) *Appeal of final determinations.* (1) *Appeal Submittal.* Any district or landholder whose rights and interests are directly affected by a regional director's final determination can submit a written notice of appeal. Such notice of appeal must be submitted to the Commissioner of Reclamation within 30-calendar days from the date of the regional director's final determination.