

RECLAMATION

Managing Water in the West

Summary of District Responsibilities

Reclamation Reform Act of 1982



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Summary of District Responsibilities

This summary outlines district responsibilities for the administration and enforcement of the Reclamation Reform Act of 1982 (RRA) as amended. This summary does not supersede 43 CFR part 426 (Acreage Limitation Rules and Regulations) or 43 CFR part 428 (Information Requirements for Certain Farm Operations in Excess of 960 Acres and the Eligibility of Certain Formerly Excess Land), does not include all of 43 CFR 426.19 (District responsibilities) or 43 CFR 428.10 (Districts' responsibilities concerning formerly excess land) [see Appendix 1], and does not cover all possible issues. Therefore, districts are encouraged to contact the appropriate Bureau of Reclamation office for answers to specific questions.

The term "district" is defined within 43 CFR part 426 (effective January 1, 1998), as "any individual or any legal entity established under State law that has entered into a contract or can potentially enter into a contract with the United States for irrigation water service through federally developed or improved water storage and/or distribution facilities." Such entities include, but are not limited to, canal companies, conservancy districts, ditch companies, irrigation and drainage districts, irrigation companies, irrigation districts, reclamation districts, service districts, storage districts, water districts, and water user associations.

General Responsibilities

Districts must administer, enforce, and comply with the RRA, 43 CFR part 426, and 43 CFR part 428. A district under contract with Reclamation that delivers Reclamation irrigation water to landholders (direct or indirect landowners or lessees) or farm operators must provide information and guidance to all landholders and farm operators regarding the acreage limitation provisions of Federal reclamation law and the associated regulations (specifically, 43 CFR parts 426 and 428). A district must comply with the provisions of its contract with Reclamation and pay to Reclamation the required established water rates and all appropriate charges. (The most common types of RRA charges are listed in the table in Appendix 2.)

Certification and/or Reporting Forms (RRA Forms)

RRA Forms Distribution

Reclamation will annually distribute RRA forms to districts subject to the acreage limitation provisions of Federal reclamation law. After receiving the forms, districts must:

- Distribute RRA forms to landholders and farm operators in a timely manner.
- Inform landholders and farm operators of RRA forms requirements.
- Answer questions regarding the completion of RRA forms.

NOTE: *Electronically fillable RRA forms and the instructions to the forms are also available at www.usbr.gov/rra.*

Substitute RRA Forms

Approved substitute RRA forms may be used in place of Reclamation's official RRA forms. Prior to use, substitute RRA forms must be submitted to, and approved by, Reclamation. The requirements described in the "Reclamation Reform Act of 1982 Certification and Reporting Forms Standards" (Standards) will be used by Reclamation to approve or disapprove substitute RRA forms. Districts may contact the appropriate Reclamation office to obtain a copy of the Standards.

Collection of RRA Forms and Forms Submittal Thresholds

Each year the district is required to collect RRA forms prior to authorizing the delivery of Reclamation irrigation water. All landholders and farm operators must submit RRA forms if their landholdings in all districts in the 17 western United States (westwide), or the amount of land to which the farm operator is providing services to, exceeds the applicable RRA forms submittal thresholds. These thresholds are determined by Reclamation based on the applicable acreage limitation status as outlined below [§ 206 and § 224(c) of the RRA and 43 CFR 426.18(g)].

Acreage limitation status	District Category 1 RRA forms submittal threshold (in acres)	District Category 2 RRA forms submittal threshold (in acres)
Prior law recipient	40	40
Qualified recipient	240	80
Limited recipient	40	40
Public entity	40	40
Trust/estate		
In a prior law district*	40	40
In a discretionary provisions district Attributed to 25 or fewer natural persons	240	80
Attributed to more than 25 natural persons	40	40
Farm operator**	960	960
* The only exception is: If everyone attributed with the land held in trust is subject to the discretionary provisions, then the trust will have an 80-acre RRA forms submittal threshold.		
** The acreage must be held in trusts or by legal entities and more than one farm-related service must be provided to such acreage.		

NOTE: *Some limited recipients, public entities, indirect landholders with prior law status, foreign entities, etc., have the misconception that the 80- or 240-acre RRA forms submittal threshold applies to them, when in fact they have a 40-acre RRA forms submittal threshold. As a result, they incorrectly believe they are not required to submit RRA forms. If a district experiences this problem, they need to notify the noncomplying landholder(s) and not allow delivery of Reclamation irrigation water unless the appropriate RRA forms are on file [43 CFR 426.18(m)(1) and 426.19(h)].*

Internal Controls for RRA Forms

Districts should develop their own process and internal controls for collecting and verifying that RRA forms are submitted prior to authorizing the delivery of Reclamation irrigation water.

Date Stamping RRA Forms

Districts must enter in the box provided on the top right-hand corner of landholder RRA forms the date on which the form is received by the district (not the date the form was signed). Generally, an administrative fee will be assessed (for a form

submittal violation) per landholder, per district, per year, if Reclamation finds that a district did not properly date stamp an RRA form. Reclamation's August 15, 2003, letter to districts explains in detail the date requirements for RRA forms.

Withholding Reclamation Irrigation Water from Noncertifying/Nonreporting Lands

Districts must not deliver Reclamation irrigation water to lands for which the appropriate RRA forms are not on file. This requirement is pursuant to § 206 and § 224(c) of the RRA, 43 CFR 426.18(m), 426.19(h), and 428.7(a).

Documenting Initial Water Delivery Date

Districts must keep water delivery records for individual landholders, and upon request, provide Reclamation with the records. If records are not provided, Reclamation will assume the landholder in question first received Reclamation irrigation water on the date the district first began such water deliveries during the year in question.

Signature Authorization and Power-Of-Attorney

Districts must ensure the following:

- A Spousal Signature Authorization provided by Reclamation (authorizing one spouse to sign for the other) is on file when both spouses have not signed their RRA form(s).
- An Entity Signature Authorization provided by Reclamation (authorizing one or more partner/tenant to sign for all other partners/tenants) is on file if all partners/tenants have not signed their RRA form(s).
- An appropriate power-of-attorney is on file in place of a Spousal Signature Authorization or Entity Signature Authorization if someone other than the landholder(s) has signed their RRA form(s).

The Spousal Signature Authorization and Entity Signature Authorization must be signed, notarized, and dated no later than the date the corresponding RRA forms were signed. Any power-of-attorney must meet all applicable State requirements and be dated no later than the date the corresponding RRA forms were signed. For acreage limitation purposes, a power-of-attorney cannot be used for corporations or trusts unless the articles of incorporation or the trust document provides for such.

Parental Oath

A Parental Oath Affirmation Regarding Nondependent Status of a Minor form (Parental Oath) provided by Reclamation must be completed by a parent or legal guardian for each nondependent minor who holds land. The Parental Oath must be properly signed and notarized, and the district must retain it as a permanent record. There is no requirement for a Parental Oath to be on file for those minors that have been treated by Reclamation as nondependents prior to April 4, 1997.

Landholding Changes During the Irrigation Season

All landholders must inform the district, either verbally or in writing, within 30 calendar days of a landholding change. All information a district receives regarding landholding changes, either verbally or in writing, should be documented in the landholder's file for future reference. New standard RRA forms must be submitted to the district within 60 calendar days of the change [43 CFR 426.18(k)]. A landholding change cannot be indicated by simply updating a previously submitted RRA form. An administrative fee will be assessed if new RRA forms are not submitted to the district within the allowed 60 calendar days. (A landholder is not required to submit a new standard RRA form if water deliveries end within 60 calendar days of a landholding change. In such cases, landholders must submit new standard RRA forms before receiving Reclamation irrigation water in the next water year.)

The above 30- and 60-day grace periods do not apply to a new landholder. A new landholder must submit all appropriate RRA forms prior to receiving Reclamation irrigation water. In contrast to a landholder that experienced a landholding change, a new landholder is a landholder that did not directly or indirectly own or lease land in a specific district during the water year immediately preceding the water year in question. For RRA forms submittal purposes only, a landholder whose landholding changes from "not exceeding" to "exceeding" the applicable forms submittal threshold during the water year is also considered to be a "new landholder."

The requirement to submit new standard RRA forms after a landholding change does not apply to farm operators required to submit forms pursuant to 43 CFR 428.4.

No RRA Forms for the Current Water Year

During the current water year, if a district discovers that a landholder or farm operator is receiving Reclamation irrigation water without the appropriate RRA form(s) on file, the district must immediately notify the landholder or farm operator and Reclamation of the violation so that appropriate actions (for

example, obtaining completed RRA forms, terminating water deliveries, etc.) can be taken.

No RRA Forms for Prior Water Years

During the current water year, if a landholder or farm operator has filed the required RRA forms and a district discovers that the landholder or farm operator received Reclamation irrigation water in a **prior** water year with no RRA forms on file for that year, the district must withhold service to such lands in future water years until all the proper forms have been submitted for both the period of noncompliance and the next water year in which the landholder wishes to receive Reclamation irrigation water.

Nonsubmittal of RRA Forms by Entities

All required RRA forms from part owners and/or beneficiaries of the entity, as well as from the entity itself, must be submitted or the district must not deliver Reclamation irrigation water to any of the lands included in the entity's landholding. However, if documents that establish the entity provide for the part owners' interests to be separable and alienable, then only that portion of the land attributed to the noncomplying part owner will be ineligible to receive Reclamation irrigation water. Therefore, if a district discovers that land is being irrigated without the appropriate RRA forms for the current water year on file, the district must immediately notify the landholder or farm operator and Reclamation of the violation so that appropriate actions (for example, obtaining completed RRA forms, terminating water deliveries, etc.) can be taken.

Reinstatement of Reclamation Irrigation Water Deliveries

When service to a landholder or farm operator has been terminated (pursuant to a Regional Director's final determination) because RRA forms for the current water year have not been submitted, the district must not reinstate Reclamation irrigation water delivery until after the required forms for the current year and any prior years of noncompliance have been submitted and Reclamation authorizes the district to resume deliveries.

Review of Data on RRA Forms

In general, districts are not required to independently verify all information

submitted by landholders and farm operators on RRA forms. However, districts should at least verify that:

- All questions are answered.
- Information is legible.
- Totals are correct.
- Forms are typed or completed in ink, signed, and dated by the appropriate parties.
- The landholder has spelled out the district's full name prior to using the district's name abbreviation.

Districts should check RRA forms for accuracy in the landholder's or farm operator's presence so that problems can be resolved quickly. If a district has reason to doubt the accuracy of the information submitted, the district should review the circumstances and inform Reclamation about the potential problem.

Consequences When a District Does Not Review Data on RRA Forms

A district could find itself in the position of owing the compensation (full-cost) rate, plus underpayment interest, and an administrative fee if Reclamation irrigation water deliveries are made to ineligible excess land. In addition, the underpayment provision of the RRA (which includes underpayment interest) is applicable if the district has failed to collect the appropriate water rate from a landholder. Districts should review RRA forms and deliver Reclamation irrigation water in a manner that minimizes the possibility of these problems.

Notes in District's Files

Districts are encouraged to place a note in a landholder's or farm operator's file explaining why there are no RRA forms on file for the water year in question. For example, an RRA form may not have been submitted because:

- The landholder or farm operator did not receive Reclamation irrigation water during the water year in question.
- The landholder's westwide landholding does not exceed the district's RRA forms submittal threshold for a particular year.
- A farm operator does not meet the criteria in 43 CFR 428.4 to submit an RRA form for a particular water year.

The note of explanation should also state that, to the best of the district's knowledge, the landholder did not exceed the applicable westwide ownership entitlement. The note may be in any format; however, it should be signed and dated by appropriate district staff.

Filing RRA Forms

To aid Reclamation in properly evaluating compliance with the RRA, districts should file RRA forms in an organized manner so that information for a given landholder or farm operator may be readily available for review. If during a water district review a district's filing system is unorganized and, as a result, Reclamation must spend significant additional time at the district office to complete its review of compliance with the RRA, Reclamation may bill the district for additional review costs.

Retaining RRA Forms

Districts must keep RRA forms on file and available for review for the appropriate retention period. In general, superseded RRA forms must be retained for 6 years, after which they may be destroyed [43 CFR 426.19(e)]. A letter dated October 10, 1997, sent to districts outlines Reclamation's retention requirements in detail. For disposal of RRA forms, see the "Disposing of RRA forms and related documents" section below.

Privacy Act Compliance

RRA forms for individuals are subject to the Privacy Act of 1974 (Privacy Act) [43 CFR 426.18(p)], regardless of whether they are in the possession of Reclamation or the districts. Since the information on RRA forms is protected by the Privacy Act, districts must:

- Maintain such RRA forms in a locked file cabinet or locked office.
- Restrict access to such RRA forms to only authorized district and Reclamation staff.
- Post "Privacy Act" signs on file cabinets and in other appropriate locations where such RRA forms are maintained. Privacy Act signs may be obtained from Reclamation.
- Only allow landholders and farm operators to access their own RRA forms.

If a party requests another landholder's or farm operator's RRA form(s), the form(s) may only be released after approval by Reclamation, with prior written consent of the landholder or farm operator to whom the form(s) belongs, or for a routine use pursuant to the Privacy Act rules and regulations (43 CFR part 2.56). Routine uses are listed in the RRA System of Records Notice, which was published in the Federal Register on March 17, 1999. A copy of the Notice can be obtained from the appropriate Reclamation office.

Disposing of RRA forms and related documents

Districts must dispose of RRA forms in accordance with the disposal requirements of the Privacy Act. Records covered by the Privacy Act must be burned, shredded, or pulped when they are discarded. In addition to the RRA forms, these disposal requirements apply to any other documents in a landholder's or farm operator's file that are subject to the Privacy Act. If there is any question as to whether a document is subject to the Privacy Act, dispose of them by the above method.

Electronic RRA forms

If a district maintains completed RRA forms in an electronic system, the electronic files are subject to the Privacy Act and as such must be maintained in accordance with the requirements of the Privacy Act. When the files are no longer needed they are to be destroyed or rendered unreadable. Possible types of electronic systems that may contain forms with landholder or farm operator information include, but are not limited to, off-the-shelf software, internally developed computer programs and databases, computerized form completion databases, word processing files, optical disks, etc. Access to the electronic system must be restricted to authorized district and Reclamation staff who need to work with the RRA forms. A warning must be posted at the front of the electronic system that informs the user that the system contains information covered by the Privacy Act and the criminal penalties associated with violation of the Privacy Act. The district will further protect the files by establishing and using passwords in order to gain access to such electronic files.

NOTE: *Even if a district has scanned a completed RRA form (with signature) into an electronic system, the district must maintain a hardcopy of the completed and signed RRA form on file.*

For more information regarding RRA forms see 43 CFR 426.18, 43 CFR 428.4 through 428.8, RRA Fact Sheets 1, 5, 7, 9, 10, and 11, and instructions to the RRA forms.

District Summary of Landholdings

Submitting District Summary Forms to Reclamation

All districts subject to the acreage limitation provisions of Federal reclamation law must annually submit district summary forms and the applicable tabulation sheets to Reclamation [§ 228 of the RRA and 43 CFR 426.19(g)]. The district summary forms and corresponding tabulation sheets must accurately reflect the information provided on RRA forms submitted by landholders and farm operators.

The district summary form and associated tabulation sheets must be submitted to Reclamation by the date established within each Reclamation region. Districts must submit the **original** summary forms and tabulation sheets, which must be completed in ink or typed. The district summary form must be signed and dated by appropriate district staff. If the district summary form and tabulations sheets are not submitted, the district will be responsible for additional costs if Reclamation must complete the summary form for the district.

Landholders Below the Applicable RRA Forms Submittal Threshold

Districts must submit annual district summary forms even when the only information they are providing concerns landholders that are not submitting RRA forms because each landholder in the district holds fewer acres than the applicable RRA forms submittal threshold.

Water Was Not Delivered

Districts that did not deliver Reclamation irrigation water during the year in question are still required to submit a summary form to Reclamation for that year.

Landholders that Did Not Receive Reclamation Irrigation Water

Landholders with westwide landholdings that exceed the applicable RRA forms submittal threshold but do not receive Reclamation irrigation water on any land are not required to submit RRA forms. However, the landholdings of these landholders must be reported by districts on the district summary form, in the item referred to as “noncertifying (or nonreporting) landholdings above certification (or reporting) threshold.”

Preparing Tabulation Sheets

Various tabulation sheets are distributed with the district summary forms. These tabulation sheets facilitate the computations needed for the district summary forms.

- For all landholders who submit RRA forms, the district must list the landholder's name, whether the landholder is a multidistrict landholder, all acreage (owned and leased) in the district, excess land, and full-cost land on the appropriate tabulation sheet.
- Information regarding farm operators who submit RRA forms must be included on the appropriate tabulation sheet.

Landholders that Do Not Submit RRA Forms but Exceed the Applicable RRA Forms Submittal Threshold

A listing of the names and acreage (owned or leased) of those landholders that do not submit RRA forms but exceed the applicable RRA forms submittal threshold must be identified on the appropriate tabulation sheet.

Errors on RRA Forms

It is particularly important that errors, omissions, and discrepancies that are noted on RRA forms be reported on the appropriate tabulation sheet.

Excess Land Changes

Districts must notify Reclamation of any changes in the excess acreage appearing on the district summary forms within 30 calendar days after a landholder reports a change to the district.

Full-Cost Land Changes

Districts must notify Reclamation of any changes in the full-cost acreage appearing on the district summary forms within 30 calendar days after a landholder reports a change to the district.

Correcting District Summary Forms

Districts must correct summary forms and tabulation sheets as requested by Reclamation.

For more information regarding district summary of landholdings see 43 CFR 426.19(g) and instructions to the district summary forms.

Excess Lands

Identifying Excess Land

Districts are responsible for identifying all excess land within the district. Districts are responsible for making sure Form 7-21XS (Designation of Excess Land) is filed when a landholder exceeds the applicable ownership entitlement. Form 7-21XS must be completed by the direct landholder regardless of whether or not they want to irrigate the excess land. A landholder that owns land that has been designated as excess must complete Form 7-21XS, even if the landholder does not currently exceed the applicable ownership entitlement. In addition, Form 7-21XS must be completed by landholders that purchase land that was designated as excess by the seller, but the land was sold without sales price approval by Reclamation.

Nondesignated Excess Land

If a landholder owns land in excess of the ownership entitlement and has not designated excess land appropriately, the district is required to designate such land as excess in accordance with the provisions in its contract with Reclamation, provided the land is located solely in that district. If no contract provisions exist or the land is located in more than one district, the designation of such land is to be made by Reclamation in accordance with 43 CFR 426.12(a)(2). The district must document a landholder's failure to designate excess land.

Authority to Approve an Excess Land Redesignation

Requests for redesignation of excess land must be approved in writing by Reclamation prior to being implemented by the district or landowner. The landowner may change the designation under the following conditions without Reclamation approval:

- The excess land becomes eligible to receive Reclamation irrigation water because the landowner becomes subject to the discretionary provisions as provided in 43 CFR 426.3.
- A recordable contract is amended to remove excess land when the landowner's entitlement increases because the landowner becomes subject to the discretionary provisions as provided in 43 CFR 426.12(j)(5).
- The excess land becomes eligible to receive Reclamation irrigation water as a result of a Class 1 equivalency determination, as provided in 43 CFR 426.11.

Withholding Reclamation Irrigation Water from Excess Land

Districts must not deliver Reclamation irrigation water to excess land unless it is eligible to receive such deliveries. If ineligible excess land is found to be receiving Reclamation irrigation water, districts must immediately inform the landholder and Reclamation of the violation so that appropriate actions can be taken to initiate the process to terminate delivery of Reclamation irrigation water.

Eligibility of Land Purchased or Transferred from Excess Status

Districts must not deliver Reclamation irrigation water to land purchased or transferred from excess status unless the sale or transfer price was approved by Reclamation. Districts are responsible for informing landholders that sale price approval is required.

Consequences of Delivering Reclamation Irrigation Water to Excess Land

If a district delivers Reclamation irrigation water to ineligible excess land, the district will be subject to application of the compensation (full-cost) rate for any Reclamation irrigation water delivered to those lands, plus any applicable underpayment interest and an administrative fee.

Situations Where Excess Land May Be Eligible to Receive Reclamation Irrigation Water

In some cases, excess land may be eligible to receive Reclamation irrigation water. For example:

- The land became excess through involuntary acquisition.
- The land is under recordable contract.

Landholders that are Former Owners of Excess Land

Former owners of excess land that sold or transferred such land at an approved price and then become a landholder of that land are prohibited from receiving

Reclamation irrigation water on any of their formerly excess land that they sold or transferred at an approved price with the following exceptions:

- The landholder became or contracted to become a landholder of that land prior to December 18, 1996, and the land is otherwise eligible to receive Reclamation irrigation water.
- Such land becomes exempt from the acreage limitation provisions.
- The full-cost rate is paid for all such water deliveries.
- The deed covenant associated with the sale has expired.

NOTE: *A similar restriction applies for formerly excess land and farm operators. See "Farm operators that are former owners of excess land" in the Farm Operating Arrangements section for further information.*

For more information regarding excess land and excess land appraisals see 43 CFR 426.12 through 426.14, and instructions to Form 7-21XS.

Full-Cost Lands

Identifying Full-Cost Land

Districts are responsible for identifying all full-cost land within the district. Districts are responsible for making sure Form 7-21FC (Selection of Full-Cost Land) is filed when a landholder exceeds the applicable nonfull-cost entitlement. Form 7-21FC must be completed by the direct landholder regardless of whether or not they want to irrigate the land that exceeds their nonfull-cost entitlement.

Reselection of Full-Cost Land During a Water Year

If a landholder submits a Form 7-21FC indicating a reselection of full-cost land during a water year, the district is to forward the previously submitted Form 7-21FC along with the new Form 7-21FC to Reclamation, with a note stating that the new Form 7-21FC supersedes the previously submitted Form 7-21FC. Reclamation will review the matter and determine if the landholder is permitted to adjust the previous selection of nonfull-cost/full-cost land.

Full-Cost Payments

Full-cost payments to Reclamation must be submitted by the due date established by each region to avoid underpayment interest.

Responsibility for Full-Cost Payments

Districts should collect full-cost payments from the appropriate landholder. The district is ultimately responsible for payment to Reclamation by the established due date regardless of whether a specific landholder pays.

Underpayment of Full-Cost Charges

If Reclamation discovers a situation where full-cost charges were due for deliveries of Reclamation irrigation water that were not paid by the established full-cost payment due date, the district will be required to pay the amount of any underpayment with interest as specified in § 224(i) of the RRA and 43 CFR 426.21(c).

For more information regarding full-cost land see 43 CFR 426.6, 43 CFR 428.9, Fact Sheet 11, and instructions to Form 7-21FC. For more information on the underpayment provision see 43 CFR 426.21.

Trusts

Reclamation must review and approve all trusts pursuant to 43 CFR 426.7(b)(1)(i).

Reviewing Trusts

If requested by Reclamation, the district must request landholders or trustees to submit copies of trusts to Reclamation for review. If individual trustees or beneficiaries prefer, Reclamation will communicate directly with them, rather than the district, to obtain the relevant documentation. Districts are not responsible for keeping trust documents on file for RRA purposes, but should maintain a record of which trusts have been approved.

Other Documents

If requested by Reclamation, the district must provide copies of any RRA forms and other documents maintained by the district that are needed to review a trust.

Notification of Trust Review Results

If requested by Reclamation, districts must notify the trustee and beneficiaries of the results of Reclamation's review.

Delivery of Reclamation Irrigation Water Prior to Trust Approval

Prior to approval, a trust is considered to be conditionally approved; therefore, districts may deliver Reclamation irrigation water prior to any approval. However, districts should note that if it is found during the trust review that the land held in trust is subject to full-cost charges or was ineligible to receive Reclamation irrigation water, appropriate action will be taken not only prospectively but also retroactively.

For more information regarding trusts see 43 CFR 426.7, RRA Fact Sheet 12, and instructions to the "Declaration of Trusts or Estate's Landholdings" (Form 7-21TRUST).

Leases

Reviewing Leases

If requested by Reclamation, districts must request landowners or lessees to submit copies of leases to Reclamation for review. If individual landowners or lessees prefer, Reclamation will communicate directly with them, rather than the district, to obtain the relevant documentation. Districts are not required to have copies of leases on file for RRA purposes. However, districts are required to have any lease that exceeds 10 years reviewed and approved by Reclamation pursuant to 43 CFR 426.6(a)(6). Districts should maintain a record of which leases have been reviewed by Reclamation and the results of such reviews.

Other Documents

If requested by Reclamation, districts must provide copies of any RRA forms and other documents maintained by the district for leased land.

Notification of Lease Review Results

If requested by Reclamation, districts must notify the lessor and lessee of the results of Reclamation's lease review.

Delivery of Reclamation Irrigation Water

A lease is considered to be conditionally approved; therefore, districts may deliver Reclamation irrigation water prior to any approval. However, districts should note that if it is found during the lease review that the leased land is subject to full-cost charges or ineligible to receive Reclamation irrigation water, appropriate action will be taken not only prospectively but also retroactively.

Ineligible Land

Districts must not deliver Reclamation irrigation water to land that is ineligible to receive Reclamation water for the following reasons:

- If, upon request, a landholder refuses to submit a copy of a lease or other information concerning the lease to Reclamation as needed for lease approval, the leased land is ineligible to receive Reclamation irrigation water.
- If a lease does not meet the requirements of 43 CFR 426.6(a)(1) through (8), the district must not deliver Reclamation irrigation water to the subject land. Prior to the district taking action, Reclamation will give the lessor and lessee 60 calendar days to either correct or terminate the lease.

Minimizing Occurrences of Expired Leases

Districts should take actions to minimize the occurrences of expired leases, for example, by:

- Checking RRA forms as they are submitted to the district for reported effective dates and terms of leases.
- Setting up a tickler file containing lease expiration dates.
- Cross checking lessee and lessor files to assure their RRA forms contain the same leasing information.
- For each Form 7-21 VERIFY (Verification of Landholdings) that is submitted to the district, check the standard form being verified for any leasing information. Although verification forms can be submitted

indefinitely as long as there have been no landholding changes, an extension or renewal of an existing lease (except annual leases) is considered to be a landholding change that requires the submission of a new standard RRA form.

For more information regarding leases see 43 CFR 426.6 and 43 CFR 426.2 for the definition of "lease."

Farm Operating Arrangements

Reviewing Farm Operating Arrangements

If requested by Reclamation, districts must request landholders or farm operators to submit copies of farm operating arrangements or similar documentation to Reclamation for review. If individual landholders or farm operators prefer, Reclamation will communicate directly with them, rather than the district, to obtain the relevant documentation. Districts are not required to have copies of farm operating arrangements on file for RRA purposes, but should maintain a record of which farm operating arrangements have been reviewed by Reclamation and the results of such reviews.

Other Documents

If requested by Reclamation, districts must provide copies of any RRA forms maintained by the district and other documents relating to land on which a farm operator is providing services.

Notification of Review Results

If requested by Reclamation, districts must notify the landholder and farm operator of the results of a Reclamation farm operating arrangement review.

Delivery of Reclamation Irrigation Water

A farm operating arrangement is considered to be conditionally approved; therefore, districts may deliver Reclamation irrigation water prior to any approval. However, districts should note that if it is found during a farm operating arrangement review that the arrangement is a lease for acreage limitation purposes, appropriate action will be taken not only prospectively but also retroactively.

Farm Operating Arrangements that are Determined to be Leases

If a farm operating arrangement does not meet the exception criteria specified within the definition of "lease" in 43 CFR 426.2, then the arrangement will be considered to be a lease. A determination that a farm operating arrangement is a lease will generally be applied retroactively; therefore, it is important for districts to alert Reclamation of any farm operating arrangements that are reported to be farming acreage that exceeds the applicable nonfull-cost entitlements.

Reclamation will then review the situation. If the arrangement is considered to be a lease, the district must ensure the landholder includes the land on their RRA forms and, if as a result they exceed their nonfull-cost entitlement, the full-cost rate applies.

If a farm operator or landholder refuses to submit a copy of a farm operating arrangement or other information concerning the farm operating arrangement to Reclamation as requested, then Reclamation will consider the farm operating arrangement to be a lease for acreage limitation purposes and take appropriate action.

Farm Operating Arrangements Providing Service(s) to More than 960 Acres

Pursuant to 43 CFR part 428, certain farm operators (and part owners thereof) are required to annually submit Form 7-21FARMOP (Declaration of Farm Operator Information). Districts must annually collect a Form 7-21FARMOP from:

- Any farm operator providing services to more than 960 acres westwide that are held (directly or indirectly owned or leased) in trusts or by legal entities.
- Any part owner of a legal entity that is a farm operator required to submit an RRA form(s), if any of the land to which services are being provided by that legal entity is land that the part owner formerly owned as excess and sold or transferred at an approved price.

Landholding Changes by Farm Operators

After a farm operator has submitted the required RRA forms for the year in question, districts do not need to require the farm operator to submit another Form 7-21FARMOP for that year, even if the farm operator experiences a change in farm operating arrangements.

Standard RRA Forms Required

Farm operators that are subject to the RRA forms requirements must submit a new standard RRA form each year. Districts must not permit farm operators to use Form 7-21 VERIFY, even if the farm operating arrangement has not changed from the previous year.

Farm Operators that Do Not Submit Required RRA Forms

Districts must not deliver Reclamation irrigation water to land serviced by farm operators that are required to submit RRA forms until after the farm operators have submitted the required forms.

Farm Operators that are Former Owners of Excess Land

Districts must not deliver Reclamation irrigation water to land that is held in trust or by a legal entity if the direct or indirect farm operator of that land formerly owned the land as excess and sold or transferred the land at a price approved by Reclamation. However, such land can be eligible to receive Reclamation irrigation water if the full-cost rate is paid for the water deliveries or the land becomes exempt from the acreage limitation provisions.

For more information regarding farm operator requirements see 43 CFR part 428.

Class 1 Equivalency

Class 1 Equivalency Determination Requests

All districts are eligible to request Class 1 equivalency determinations. However, since only landholders subject to the discretionary provisions may utilize Class 1 equivalency factors, it is the district's responsibility to ensure prior law landholders do not use such factors. It is the district's responsibility to request that Reclamation perform a Class 1 equivalency determination.

Associated Costs

Costs of performing new or additional economic studies and computations in the equivalency process will be the responsibility of the requesting district. If land classification is an issue in order to obtain a Class 1 equivalency determination, the district's responsibilities with regard to costs of such studies are defined in 43 CFR 426.11(d).

Availability of Reclamation Irrigation Water to Excess Land

The district must ensure that Reclamation irrigation water is not delivered to land owned in excess of basic ownership entitlements during equivalency studies, unless the land is eligible to receive Reclamation irrigation water because it meets an exception listed in this document (reference the "Excess Lands" section, "*Situations where excess land may be eligible to receive Reclamation irrigation water*").

For more information regarding Class 1 equivalency see 43 CFR 426.11 and the instructions for Form 7-21XS and Form 7-21FC.

Irrevocable Elections

Conformance to the Discretionary Provisions Through Irrevocable Elections

In order to conform to the discretionary provisions of the RRA, a prior law landholder may submit an irrevocable election form. An irrevocable election will subject an elector's entire westwide landholding to the discretionary provisions. The elector must file copies of the election and certification forms concurrently with each district where the elector holds nonexempt land. "Nonexempt land" is defined within the Acreage Limitation Rules and Regulations (43 CFR 426.2) as:

“ . . . either irrigation land or irrigable land that is subject to the acreage limitation provisions. Areas used for field roads, farm ditches and drains, tailwater ponds, temporary equipment storage, and other improvements subject to change at will by the landowner, are included in the nonexempt acreage. Areas occupied by and currently used for homesites, farmstead buildings, and corollary permanent structures such as feedlots, equipment storage yards, permanent roads, permanent ponds, and similar facilities together with roads open for unrestricted use by the public are excluded from nonexempt acreage.”

RRA Forms Requirements for All Electors

All irrevocable election forms must be accompanied by the required certification forms, and if applicable, a Corporate Resolution or notarized Parental Oath. The use of Spousal Signature Authorizations and Entity Signature Authorizations is not acceptable for meeting signature requirements on the irrevocable election forms. Upon completion of an irrevocable election form the landholder must submit the irrevocable election, certification form(s), and any other required documents to the district. The district must submit the originals of these documents to Reclamation. If the landholder holds land in multiple districts, copies of the documents are to be submitted to the other districts. A July 18, 2002, letter to districts outlines Reclamation's irrevocable election process in detail.

Election Review Results

An irrevocable election becomes effective on the date Reclamation receives it; however, the election is subject to approval by Reclamation. Reclamation will advise an irrevocable elector in writing of the approval or disapproval of the election. If the election is approved, a copy of the approval letter, the election, and the certification form(s) will be forwarded to each district where the elector holds land. In addition, if Reclamation finds during its review of an irrevocable election that the elector exceeded the applicable ownership or nonfull-cost entitlement, full-cost or compensation charges may be applied retroactively.

Filing and Retention of Irrevocable Election Forms

Once approved by Reclamation, districts are to permanently maintain the irrevocable election form.

Indirect Landholders

Generally, landholders that hold land only indirectly in a district that has conformed to the discretionary provisions may make an irrevocable election by merely submitting certification forms to all districts where the landholder holds land subject to the acreage limitation provisions. However, nonresident aliens and foreign entities are not permitted to conform to the discretionary provisions through the submittal of a certification form.

For more information regarding irrevocable elections see 43 CFR 426.3(f), 43 CFR 426.8(d), and RRA Fact Sheet 3.

Nonresident Aliens and Foreign Entities

Acreage Limitation Entitlements

All nonresident aliens and foreign entities will have the applicable prior law entitlements as their base acreage limitation entitlements (ownership and nonfull-cost) for all land held in prior law districts and all land held indirectly in districts subject to the discretionary provisions of the RRA.

Ineligibility to Receive Reclamation Irrigation Water

Districts must not deliver Reclamation irrigation water to any land held directly by a nonresident alien or foreign entity in a district subject to the discretionary provisions of the RRA.

Irrevocable Election

Through the irrevocable election process, nonresident aliens who are citizens of, and foreign entities that are established in, a country that has a certain treaty with the United States or is a member of a certain international organization will have the option of conforming to the discretionary provisions of the RRA to increase their acreage limitation entitlements for land held **indirectly** in all districts. (It should be noted that Reclamation will not approve irrevocable elections for nonresident aliens and foreign entities that directly hold any land in a prior law district.) For a list of treaties and the names of the eligible international organizations see 43 CFR 426.8(d).

Nonresident aliens or foreign entities that meet the criteria in the preceding paragraph may not use certification forms as a means to conform to the discretionary provisions. Such landholders can conform to the discretionary provisions only by submitting an irrevocable election.

Proof of Citizenship or Entity Establishment

Nonresident aliens and foreign entities will be required to provide proof of citizenship or proof of where the entity was established, respectively, if they meet the criteria to file an irrevocable election. Districts will retain such documentation in the landholder's file as a permanent record when such documentation is transmitted by Reclamation with an approved irrevocable election. Acceptable proof includes:

- For a nonresident alien -

A copy of the page from the nonresident alien's currently valid passport that includes the name, picture, signature, etc., of the nonresident alien (copies of "visa" pages are not acceptable) or a copy of the nonresident alien's birth certificate.

- For a foreign entity -

A copy of the articles of incorporation or other document creating the entity, with the country of establishment clearly identified in the document. One of the following must also be included: proof that the document has been submitted to the applicable governing unit in the country indicated, a notarized statement concerning the authenticity of the document, or a letter from the embassy of the country in question attesting that the foreign entity is established in said country.

For more information about nonresident aliens and foreign entities see 43 CFR 426.8.

Religious or Charitable Organizations

Review of Forms

Districts must review RRA forms submitted by religious or charitable organizations [Form 7-2184 (Certification of Religious or Charitable Organization's Landholdings) and Form 7-2194 (Report of Religious or Charitable Organization's Landholdings)] to determine if an organization has answered "no" to the question concerning their Internal Revenue Service exemption or "yes" to any of the following questions:

- (a) Is any part of your organization's agricultural produce or the proceeds of the sales of such produce used for other than charitable purposes?
- (b) Is any irrigable and/or irrigation land held by your organization operated or leased by a party other than your organization, a subdivision of the organization, or a more central organization of the same affiliation?
- (c) Does any part of your organization's net earnings accrue to the benefit of any private shareholder or individual?

If either response has been provided, the district is to notify Reclamation for further guidance.

For more information about religious or charitable organizations see 43 CFR 426.9.

Public Entities

Application of the Acreage Limitation Provisions

In general, the acreage limitation provisions apply to land held by public entities that is farmed primarily for a revenue producing function. Reclamation began to fully implement these provisions beginning in January 2005. For detailed information about the application of the acreage limitation provisions to public entities, refer to the separate instructions for Form 7-21PE (Declaration of Public Entity's Landholdings) and the August 13, 2004, letter (subject: Application of the Acreage Limitation Provisions to Public Entities) that Reclamation mailed to all districts subject to the acreage limitation provisions.

RRA Forms Requirements

Public entities that hold more than 40 acres westwide in districts subject to the acreage limitation provisions must annually submit an RRA form prior to the delivery of Reclamation irrigation water, even if none of the public entity's land is subject to the acreage limitation provisions in its holding. All public entities subject to the RRA form requirements must submit a new standard Form 7-21PE in the 2006 water year. If a public entity has indicated it leases out some or all of its land, the district must ensure the lessees have reported such land as owned land on their RRA forms.

Districts are Public Entities

For acreage limitation purposes, districts that hold land are considered to be public entities.

For more information about public entities see 43 CFR 426.10.

Commingling

Definition

Commingled water means Reclamation irrigation water and nonproject water that use the same facilities.

Application of Acreage Limitation Provisions to Commingled Water

If a district's repayment or water service contract with Reclamation includes commingling provisions, the acreage limitation provisions will apply to only the landholders that receive Reclamation irrigation water, provided the contract requirements and any other requirements specified by Reclamation have been met. Commingling requirements vary depending on the circumstances of each case. However, in all cases, districts must have a method in place that enables them to accurately track deliveries of Reclamation irrigation water. Further, in those cases where the facilities used for commingled water were Federally financed, an incremental fee must be paid in order for the acreage limitation provisions not to apply to landholders that receive nonproject water. An incremental fee is a fee that reasonably reflects an appropriate share of the cost to the Federal Government, including interest, of storing or delivering the nonproject water.

For more information about commingling see 43 CFR 426.15.

Water District Reviews/Audits

Reclamation will conduct water district reviews (at a minimum, on a 5-year cycle) of each district's administration and enforcement activities. Such reviews will be conducted even if none of the landholders in the district exceed the RRA forms submittal threshold. Audits may be performed on individual landholders or farm operators. At a minimum, Reclamation will conduct audits on landholders and farm operators whose total landholdings or land to which farm services are being provided exceed 960 acres (Class 1 equivalency is not factored in).

Availability of Documents for Review

The district is responsible for making internal documentation (for example, worksheets, notes, lists, etc.) and RRA forms available to the review team. In addition, at the request of the review team, the district must make available other

records such as ownership records, district maps, water delivery records, assessment records, billing records, etc.

Participation by District Staff

District staff must be available to coordinate with Reclamation staff regarding the scheduling of water district reviews, attend the entrance and exit interviews with the review team, provide materials to the review team upon request, and be available to answer questions relating to the review.

Notification of Identified Problems

Reclamation will provide the district with a report following the review. Districts are responsible for responding to any required actions specified in the report and ensuring that steps required by Reclamation to rectify problems found during the water district reviews and audits are completed within established time frames. During water district reviews, the review team will complete compliance review sheets for all landholders selected to be reviewed. The compliance review sheets will identify any corrections that need to be made. As specified by Reclamation, districts may correct the errors at that time or send a copy of the compliance review sheet (along with any requested copies of corrected RRA forms, water delivery records, lease agreements, etc.) to Reclamation verifying that the errors have been corrected. Reclamation may also use compliance review sheets when reviewing RRA forms submitted with irrevocable elections, trusts, district summary forms, etc.

For more information regarding water district reviews and audits see 43 CFR 426.25.

Exemptions

Repayment of Construction Cost Obligation

Land in a district becomes exempt from the acreage limitation provisions after a district completes payment of the construction cost obligation in accordance with the terms in its repayment or water service contract with Reclamation. Land may also become exempt from the acreage limitation provisions after individual landowners have repaid all construction costs allocated to their land in a district, provided the district's contract with Reclamation was executed prior to October 12, 1982, and the contract permits accelerated repayment by landowners.

Provide Information to Reclamation

Reclamation reviews pay-out situations to ensure that all the exemption requirements have been met. Upon request, districts must provide data and documentation necessary for Reclamation to complete its review. Districts will be notified in writing when Reclamation approves an exemption from the acreage limitation provisions.

For more information about exemptions see 43 CFR 426.16.

APPENDIX 1

43 CFR 426.19 District Responsibilities¹

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;

¹ This document is not intended to be a legal document and is being provided strictly for districts' convenience.

- 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 certification 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

43 CFR 428.10 Districts' Responsibilities Concerning Certain Formerly Excess Land

Districts must not make irrigation water available to formerly excess land that meets the criteria under § 428.9(a) unless an exception provided in § 428.9(b) applies.

APPENDIX 2

Types of RRA Charges ¹

Revised March 2006

TYPE OF CHARGE	REASON FOR CHARGE	ELIGIBLE FOR WATER?
General full-cost	Landholder receives Reclamation irrigation water on eligible land owned and/or leased above the nonfull-cost entitlement. Such land is eligible to receive Reclamation irrigation water only at the full-cost rate.	Yes
Full-cost on formerly excess land	Landholder or farm operator receives Reclamation irrigation water on eligible formerly excess land that the landholder or farm operator sold or transferred when the land was excess at a price approved by Reclamation. (This charge is not applicable if an exception specified in 43 CFR 426.12(g) or 428.9 applies.)	Yes
Full-cost on an isolated tract(s)	Landholder receives Reclamation irrigation water on owned land determined by Reclamation to be an isolated tract(s) and total land being irrigated (including the isolated tract[s]) exceeds the landowner's nonfull-cost entitlement.	Yes
Compensation Rate (Equals Full-Cost Rate)		
General compensation rate	Any time Reclamation issues a final determination that land is ineligible to receive Reclamation irrigation water, other than for an RRA forms violation, but receives such water anyway.	No
Terms of a lease	Reclamation irrigation water is delivered to lands with lease terms that do not meet the leasing criteria specified in 43 CFR 426.6(a), and the leases are not corrected in the time provided.	No (until the lease is revised and approved)
Length of a lease	Reclamation irrigation water is delivered to lands associated with leases whose duration exceeds 10 years, with an exception for certain perennial crops. In any case, if a lease exceeds 25 years, the compensation rate is imposed.	No (until the lease is revised and approved)
Excess land violation	Reclamation irrigation water is delivered to ineligible lands owned in excess of the applicable ownership entitlement (administrative fee also applies).	No
Administrative Fee		
Form error violation	A landholder or farm operator fails to correct errors identified on RRA forms within 60 calendar days of the date specified by Reclamation.	Yes (in the current water year)
Form submittal violation	<ol style="list-style-type: none"> 1. A landholder or farm operator fails to file RRA forms prior to receiving Reclamation irrigation water. 2. A landholder fails to file new standard RRA forms within 60 calendar days following the date of a landholding change. 	<ol style="list-style-type: none"> 1. No (if RRA forms for the current water year are missing) 2. No (if, in the current water year, new standard RRA forms are not submitted within 60 calendar days of the landholding change)
Excess land violation	Reclamation irrigation water is delivered to ineligible lands owned in excess of the applicable ownership entitlement (compensation rate also applies).	No
Administrative Charges		
Completion of district work	Actual costs billed to district for Reclamation staff to complete district work (e.g., nonsubmittal of district summary forms).	Yes
Underpayment Interest		
Improper water rate	Interest assessed when the proper rate for water has not been paid.	N/A

¹ Not all inclusive.