

§ 702.13

the eligible SRP or an identifiable portion thereof has been established in accordance with the appropriate standards and specifications and that such SRP would serve the functional purposes for which the practice is intended.

(b) Cost-share payments may be made available under this part only for the establishment or installation of an eligible SRP.

(c) Cost-share assistance may be approved for the replacement, enlargement, or restoration of SRP's installed under a CRSC Contract if such practices, as originally installed, failed to achieve the desired salinity reduction and if:

(1) The replacement, enlargement, or restoration of the SRP is required to solve identified problems or to achieve salt reduction benefits;

(2) The approved specifications for the SRP were met in the original installation of the practice; and

(3) The failure of the SRP to solve the identified problem or to achieve salt reduction benefits was caused by circumstances beyond the control of the participant.

(d) If a participant has taken any action which tends to defeat the purposes of the program provided for by this part, the COC may withhold or require a refund of all or part of any payments otherwise due or paid that participant in accordance with this part. Such actions include, but are not limited to, failure to properly maintain or deliberately destroying a SRP.

§ 702.13 Levels and rates of cost-share payments.

(a) The level of Federal cost-share assistance for the required SRP's for the project shall be determined by formulas as established in the USDA Salinity Control Report.

(b) Except as provided in paragraph (c) of this section, cost-share payments shall not exceed the lesser of 70 percent of the average cost or 70 percent of the actual cost of the installation of the SRP.

(c) The Deputy Administrator, in consultation with the USDA Salinity Control Coordinating Committee, may approve cost-share levels in excess of 70 percent of the average or actual cost of

7 CFR Ch. VII (1-1-02 Edition)

installation of the SRP or in excess of the level based on the ratio of on-farm and offsite benefits if such increased assistance is necessary to obtain acceptable program participation. Higher cost-share levels shall be considered only when one or more of the following apply, unless the Secretary finds at his discretion that such cost-sharing requirement would result in a failure to proceed with needed on-farm measures:

(1) On-farm benefits that are low relative to offsite benefits;

(2) Higher degree of project cost-effectiveness and magnitude of salinity reduction benefits to be achieved relative to other projects;

(3) The need for and the cost of implementing voluntary SRP's to replace incidental fish and wildlife values foregone;

(d) The combined cost-share assistance provided by Federal, State, and local governments or subdivisions thereof shall not exceed 100 percent of the cost of installing the SRP.

[52 FR 16741, May 5, 1987, as amended at 58 FR 11786, Mar. 1, 1993]

§ 702.14 Assignments.

Any participant entitled to cost-share payments under this program may assign the right to receive such payment, in whole or in part, as provided in the regulations at 7 CFR part 709, Assignment of Payment, or as provided in instructions issued by the Deputy Administrator.

§ 702.15 Payments not subject to claims.

Subject to the regulations found at 7 CFR part 13, any cost-share payment or portion thereof due any entity shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the practice in favor of the owner or any other creditor, except agencies of the United States Government.

§ 702.16 Maximum amount of cost-share payments.

(a) Maximum payments for on-farm SRP's.

(1) Except as provided in paragraph (a)(2) of this section, the maximum amount of cost-share payments that a

COC may approve for the establishment of on-farm SRP's on all land owned or controlled by a participant for the life of the program provided for by this part shall not exceed \$100,000.

(2) The Deputy Administrator may approve cost-share payments to a participant for the establishment of on-farm SRP's in excess of \$100,000.

(b) Except as provided in paragraphs (b)(1) and (b)(2) of this section, the maximum program cost-share payment that a COC may approve for implementing required SRP's for installing and improving canals and laterals on all land owned and controlled by a participant for the life of the program shall not exceed \$200,000.

(1) Upon the request of the COC, the STC may authorize the COC to approve cost-share payments to a participant for the establishment of canal and lateral improvements in an amount that exceeds, \$200,000 but not greater than \$400,000.

(2) Upon the request of the COC, the Deputy Administrator may authorize the COC to approve cost-share payments to a participant for the establishment of canal and laterals improvements in amounts exceeding \$400,000.

(c) Cost-sharing payments in excess of \$100,000 shall be considered only when such payment will result in greater total offsite benefits, because the offsite benefits for the participants SCP, are greater than those of other participants under consideration at the same time and one or more of the following conditions exist:

(1) The cost of establishing required SRP's on the participant's land is high relative to the cost of installing practices on other similar land because of barriers or limitations imposed by nature or by man through past irrigation system practices;

(2) The extent of SRP's that must be established on a participant's land; and

(3) Increases in the cost of conservation materials and services that are beyond the participant's control.

§ 702.17 Transfers of land and contract modifications.

(a) CRSC Contracts may be transferred or modified with the agreement of all parties to the contract. The transferee shall assume full

responsibility for performance under the CRSC Contract, including the implementation of scheduled SRP's and the operation and maintenance of existing and scheduled SRP's.

(b) A participant who sells or loses control of the land under a CRSC Contract or any related operation and maintenance agreement to a new owner who refuses to perform the provisions of the CRSC Contract or operation and maintenance agreement or a participant who sells the water rights before there is compliance with all of the terms and conditions of a CRSC Contract or operation and maintenance agreement may be required to refund all or a portion of the cost-share assistance earned under the program.

§ 702.18 Violations.

(a)(1) If a participant violates the CRSC Contract or any related operations and maintenance agreement, the COC may, after considering the recommendations of the CD and SCS, terminate the CRSC Contract and operation and maintenance agreement.

(2) If the CRSC Contract is terminated by the COC in accordance with this section, the participant shall forfeit all rights to further cost-share payments under the CRSC Contract and shall refund all or part of the payments received as determined by the COC.

(b) The following actions constitute a violation of the CRSC Contract or any related operation and maintenance agreement by a participant:

(1) Destruction of a SRP on land which is the subject of a CRSC Contract, unless prior approval in writing is granted by FSA with SCS concurrence;

(2) Failure to comply with the terms and conditions of the CRSC Contract and any related operation and maintenance agreements;

(3) Filing of a false claim;

(4) Undertaking any action during the CRSC Contract or any operation and maintenance agreement period that tends to defeat the purpose of the program, including the destruction of any existing conservation practices that were established under any other cost-share program unless the participant provides evidence that all of the