

## Farm Service Agency, USDA

## § 702.18

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

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participant's obligations under such other program have been met; or

(5) Employment of any scheme or device to obtain cost-share assistance or additional cost-share assistance, or to deprive any other land user of cost-share assistance or the right to participate in the program.

(c) The Deputy Administrator may terminate any CRSC Contract and any related operation and maintenance agreements by mutual agreement with the participant based upon recommendations from COC, STC, SCS, and CD, if the termination of the CRSC Contract and operation and maintenance agreement is determined to be in the best interest of the public.

(d) If the participant fails to perform the terms and conditions of the CRSC contract and the Deputy Administrator determines, after considering the recommendations of the CD and SCS, that such failure does not warrant termination of the CRSC contract, the Deputy Administrator may require such participant to refund all or part of the payments received under the CRSC contract, or to accept such adjustments in the payment as are determined to be appropriate by the Deputy Administrator.

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

### **§ 702.19 CRSC Contracts and operation and maintenance agreements not in conformity with regulations.**

If, after a CRSC Contract and related operation and maintenance agreement are entered in by the COC with a participant, it is discovered that such contract and operation and maintenance agreement are not in conformity with the provisions of this part as the result of a misunderstanding of the program procedures by a signatory to the contract and operation and maintenance agreement, a modification of the contract and operation and maintenance agreement may be made by mutual agreement. If the parties to the CRSC Contract and operation and maintenance agreement cannot reach agreement with respect to such modification, the contract and operation and maintenance agreement shall be terminated and all payments paid or payable under the contract shall be forfeited or

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refunded to the Federal government, except as may otherwise be allowed in accordance with the provisions of § 702.18 of this part.

### **§ 702.20 Appeals.**

The participant may obtain a review, in accordance with the provisions of 7 CFR part 614 and 7 CFR part 11, of any administrative decision made under the provisions of this part.

[60 FR 67316, Dec. 29, 1995]

### **§ 702.21 Access to land.**

The COC, SCS or other agency providing technical services or representatives thereof shall have the right of access to land for which application to enter into a CRSC Contract has been made or for which a CRSC Contract has been entered into and the right to examine any program records to ascertain the accuracy of any representation made in the application or to determine compliance with the contract.

### **§ 702.22 Performance based upon advice or action of representatives of the Department or a CD.**

Notwithstanding any other provision of law, performance rendered in good faith in reliance upon the action or advice of any authorized representative of a CD, a representative of SCS or the STC or COC may be accepted by the Chief of SCS or the Deputy Administrator, as applicable, as meeting the requirements of this program. SCS or the Deputy Administrator, respectively, may grant relief because of such good faith reliance to the extent it is deemed necessary to provide fair and equitable treatment.

### **§ 702.23 Filing of false claims.**

(a) If it is determined by the COC, with STC concurrence, that any participant has knowingly submitted false information or filed a false claim, such participant shall be ineligible for payments under the provisions of this part with respect to the calendar year in which the false information or claim was filed.

(b) False information or false claims include a claim for payment for a SRP not carried out or for the establishment of SRP's which do not meet the required specifications. Any amounts